

REMARKS

ON

Mr. *KELLT*'s

LATE

SPEECH

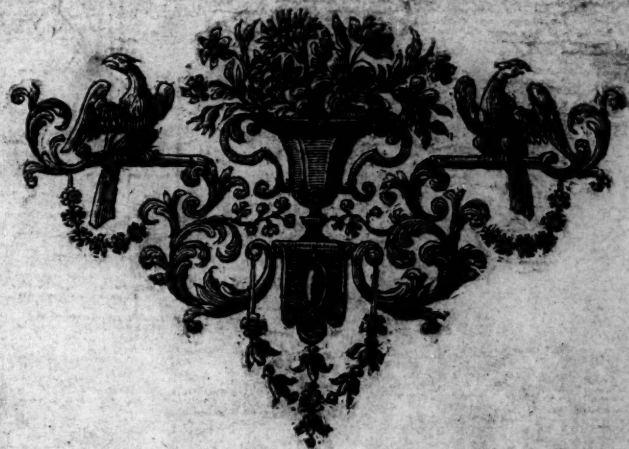
AT THE

BAR of the *HOUSE* of *LORDS*.

BEING

A Collection of all the *Papers* publish'd in the
LONDON JOURNAL upon that Occasion,

By BRITANNICUS. *prev.*



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ADVERTISEMENT.

THE following *Remarks* upon Mr. Kelly's Defence at the Bar of the House of Lords, are now reprinted together, in such manner that They may be preserved and bound up with his *Speech*, and other *Papers* relating to the *Late Conspiracy*, by Any who think it worth their while to see, or hear, on *Both Sides*, before They form their own *Judgments* about what has pass'd upon so remarkable an Occasion. They were first written with no other Design, but that of vindicating *Justice*, and *Truth*, and *Religion* itself, from the *Great Hurt* done to them, by such open *Misrepresentations*, *Falshoods* and *Prevarications*, as I believe never yet met together in any *One Speech*, before Mr. Kelly made his *Defence*. After it, indeed, in a very few Days, They were out-done by the *Superior Genius* of a *Greater Man*: as may be fully shewn in due Time. If there be amongst them *One* single *Remark*, which has done Mr. Kelly wrong, in the lowest degree, or the slightest manner; it ought in common Justice to be publickly rectified, upon the first better Information: and it shall be so, without the least *Scruple*, or *Delay*. If in the main, and as far as the *Publick* is concern'd, They are founded upon *Evidence*, *Reason* and *Equity*; They will remain, on one Hand, as *Testimonies* against His *Treason*, as well as against His *Base* and *Unmanly Manner* of *Defence*; and, on the other Hand, as *Testimonies* of the *Patience* and *Unbiassedness* of his *Judges*, and of the *Well-grounded Justice* of the *Sentence* They pass'd upon Him. At least, It is hoped, They will be received as *Testimonies* of the *Writer's* sincere *Love* to his *Country*; and of his hearty Desire that so great and necessary a *Transaction* may not be transmitted down to *Posterity*, only under the most odious Colours with which the *Conspirators* Themselves have painted it out: but be accompany'd at the same time with some of the plain *Advantages* of *Honest Simplicity*, and *Undisguised Truth*.

BRITANNICUS.





R E M A R K S

O N

Mr. K E L L Y ' s S P E E C H.

P A P E R I.

I AM now diverted from going on with the remaining *Letters* (upon the *Subject* of the *Two last*;) by the Publication of Mr. Kelly's Speech, deliver'd May 2. at the Bar of the *House of Lords*, in Opposition to the *Bill* sent up by the *Commons*, and afterwards pass'd by the *Lords*, against Him. When these late *Prosecutions* by *Parliament* were first enter'd into, I thought I could not do any thing more justly for my own inward Satisfaction, than to be Witness to what was said and done upon this Occasion, as far as it could be; and particularly in the *House of Lords*, to which the Strength of the *Defence* was reserv'd. And such was the Openness of the Proceeding, with regard to the whole *Examination* of the *Evidence*; and such the Indulgence of that Honourable *House*, with regard to *All* the *Main Debates*, and *Several* of the *Lesser*, that there was no great Difficulty in hearing with my own Ears whatever was necessary for my own Satisfaction.

When Mr. Kelly spake his *Defence*, I cannot help owning, that the *Gentility* of his *Address*, the *Tone* of his *Voice*, the *Modesty* of his whole *Gesture*, mov'd me enough to make me often wish that He might prove Himself as *Innocent*, as He pretended to be: though not enough to make me forget the *Evidence* of the contrary. These *Graces* are indeed all vanish'd, since it appear'd in *Print*. But I could not but even in the *Delivery* of it, remark the Unfair *Dexterity* of the *Speaker*; and, I remember, I said to Myself, more than once, as His *Defence* went on, "This *Method*, indeed, may be excusable in *One*, who is now for the last Time speaking for his *Liberty*. It may be pardonable, in the *Opinion* of the *World*, before the *Bill* is passed,

in a Man, accused of *Treason*, to attempt to colour over his Conduct even with *Prevarications*, and *Falshoods*, and *Recriminations*; and to try all his Art to gain the Inclination of his Judges, before They can further consider. But surely a Man, who is Himself *One* of the *sacred Order*; a Man, who speaks of the *Faith* of a *Christian* so seriously; and who puts on the Air of *Conscience* in his whole *Deportment*, will not, — cannot, after the passing of the *Bill*, ever consent to the Publication of what He Himself knows to be a *Partial*, *Unfair* Representation of his Case; and a Groundless Satire upon the *Supreme Authority* of the *Nation*. But I now find it otherwise: and am confirm'd in my Notion of the Nature and Extent of some *Mens Consciences*, by seeing it more and more plainly every Day, That there are *Those*, whose *Consciences* (as They tell You) will not suffer Them to take the *Oaths* of *Fidelity* to the *Government*; whose *Consciences* will yet, at the same time, permit Them to publish the *Vilest Falshoods* and most *Unchristian Calumnies*, which can but affect and shake It. Their *Consciences*, Good Men! will not permit Them even to be *Quiet*, for the Benefit of a *Government*: but the same *Consciences* will not only permit, but engage Them to break through the *Laws* of *Justice* and *Charity*, to annoy and weaken it. We have an Instance now before Us. For, on one Side, if a Man were only to read Mr. Kelly's Speech, and (as the Multitude are apt to do) to take it for a true State of his own Case, and of the *Arguments* of his *Accusers*; He can have no other *Idea* of Some in the *Administration*, but that They are *Wicked* beyond all the Degrees of former *Wickedness*; and no other Notion of a very great Majority of the *Two Houses* of *Parliament*, but either that They are *Ideots*, not able in the least to discern a *Gross Forgery* from a *Reality*; or that They are a Sett of *Abandon'd Wretches*, void of all the *Common Principles* of *Justice* and Honour.

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Honour. And yet, I will at the same time affirm, and prove, on the *other* Side, that the *Wickedness* lies all somewhere else; and particularly, that the *Guilt* with which Mr. Kelly was charged, upon *Evidence* which He has entirely passed over, is more strongly fix'd upon Him by the *Guilt* He has wilfully assumed, in his *Manner of Defence*. And this forces Me to add, that, as there is often an *Outward Semblance* of *Humility*, which covers under it the strongest *Pride* of Heart; so, there is sometimes an *Outward Modesty* of Appearance, where there is an *Inward Impudence* of Soul, and a *Searedness* of Conscience within.

I will own indeed, That a Man perfectly *Innocent* of what was charged on Mr. Kelly, though He might trust to the *Nature* of Things, and to the *Impossibility* of a *Number* of *Forged Circumstances* all concurring to his *Condemnation*; though He might depend upon the *Impossibility* of his suffering in the *Method of Proceeding* used against this Person, in which *Patience* and *Temper* never were wearied: yet is not obliged to do so. He has a *Right* to make *Choice* of any *One* *Honourable Method of Defence*, as better than *Another*. But this I will say, that if any *Accused Person* makes that *Method of Defence* his *Choice*, which a *Guilty Man* only stands in need of; He cannot do this, without giving too plain a *Proof* of That *Guilt*, which alone could determine Him to do it. And this I will add, that if *Any* such Person, after his *Oratory* has not been successful enough to hinder his *Conviction*, shall wilfully publish what He knows to be *False*, to load his *Judges* with *Calumnies*, or the *Government* with *Injuries*; He may talk of *Conscience*, and the *Faith* of a *Christian*, if He pleases; but He knows nothing either of the *Rules* of the *One*, or the *Influences* of the *Other*. If we read over this *Speech*, it will be easy to apply these *Observations*.

The *first* and most acknowledged *Art* of a *Guilty Defence*, is the *Art* of perpetually avoiding *All* that is most strongly and chiefly urged against a *Man*; and of dwelling with *Earnestness* and *Vigour* only upon *That*, which either was never urged at all against Him, or only very faintly, and not with any *Weight* laid upon it, but under several *Restrictions*; which He never once mentions. This is an *Art* indeed; the *Art* of putting out of *Sight* the *principal Considerations*, which ought to be always in *View*. It is the *Art* of *Guilt*, and the *Sign* of *Guilt*: especially when it shall appear that, take away *All* that comes under this *Observation*, there will remain but very little in the *Defence* of the Person *Accused*, which has the *Form* or *Design* of an *Argument*. A Man perfectly *innocent*, could not once have it in his *Thoughts* to make use of such *Arts*: because He would know that his whole *Strength* must lie in confuting the *Strength*, and not the *Weakness*, of his *Adversaries*; and that his *Innocence* puts it in his *Power* to do it.

To apply this; Mr. Kelly's *Speech* consists of *Thirteen Pages* in *Folio*. Of these *Thirteen Pages*,

there is not above the *Quantity* of *Two*, which relate to *Any Evidence* urged against Him: viz. Part of the *Seventh*, the *Eighth*, and Part of the *Tenth*. How dextrously the *rest* are employ'd, We shall presently see, if We call to mind the main Parts of the *Charge* against Him; viz. That, at the *Time* of his being apprehended, He made *Resistance* to the *Legal Officers* of the *Crown*; and threatned the *Life* of *One* of Them: That He afterwards, more than once, attempted to corrupt the *Persons*, in whose *House* He was confined, by the *Offers* of a good *Sum* of *Money* and a *Gold Watch*, in order to procure his *Escape*: That *Three* particular *Treasonable Letters* intercepted, were *His Hand-writing*: That He receiv'd *Letters* from abroad, in *Answer* to those writ by Himself, by *Fictitious Names*; and some other *Particulars*. Instead of answering to the *Substantial Evidence* upon these *Points*, his *first Art*, as I have said, is to run into *Matters* not at all charged upon Him by the *Bill*, or the *Counsel* for it. Thus, for Instance, He spends many *Paragraphs*, and even *Pages*, upon *several Passages* in the *Printed Reports*; which He was sensible He might the more safely now combat, because, being not press'd upon Him by the *Counsel* for the *Bill*, He very well knew the *Counsel* would not enter into a particular *Defence* of Them, at a *Time* when They had not open'd any such *Matters* against Him; and when it was their proper *Business* to defend what They had open'd as the *Ground* of this *Bill*, and not what They had not. This, I remember, was often repeated, but to no *Purpose*: for Mr. Kelly well knew that, on the contrary, His *Chief Business* was to answer to what was not urged against Him, and not to what was; and that his *Only Play* was in this *Artifice*. And so We find it. *Pages* 4, 5, part of 7 and 11, refer to nothing but *Passages* in the *Printed Reports* of *Both Houses*, not once mention'd in the present *Charge* against Mr. Kelly; not once insisted upon, by the *Counsel* for the *Bill*.

In the 4th *Page*, He enters upon the *Charge* against Him, as He calls it, of his employing one *Neynoe* to draw up *Memorials*: and laboriously endeavours to confute it, as well as He can. But whoever had heard only the *Charge* laid against Him at the *Bar*, and *That* to which alone He was required to answer, must have wonder'd at all this. For there was not the *Shadow* of any such *Charge* against Him; nor indeed any *Charge* at all relying entirely upon *Neynoe's Credit*. He then goes on to the *Story* of the *Earl Marishall*; and to a *Letter*, of which *Mention* is made in *One* of *Neynoe's Examinations*. Here again He roves from the *Charge* against Himself, and busies Himself in doing of *Nothing*; or in imposing on his *Judges*. For His *Judges* were confined to the *Charge* against Him at their own *Bar*: and were not obliged so much as to know, or remember, any thing but what should appear there, either for or against that particular *Charge* only. Upon the same *Foot*, All that He says about Mr. Caryl, in

in p. 11. must be thrown out as impertinent to his *Defence*; as what not only was never brought as any *Charge*, or *Reason* for the *Bill*, but as what the Counsel *for* it could not reply to, without being highly irregular. The same is to be said upon his Triumphs over *Pancier's* Deposition, p. 7. which never was once mention'd on the other Side. This *Proceeding*, I say, is the *Proceeding of Guilt*, and not of *Innocence*: and is no better than if a Man indicted of killing One Certain Man, should spend his own Breath, and the *Time* of the *Court*, in shewing that He did not kill Another Man, as, He was inform'd, it had been reported of Him abroad.

It is fit particularly to take Notice of Mr. Kelly's labour'd Attempt to invalidate those Parts of Mr. Neynoe's *Examinations*, which were not at all depended on; nor at all urged, nor in the least degree press'd against him; nay, not so much as mention'd by the *Advocates* for the *Bill*: because it is fit to set right the great Mistakes and Misrepresentations upon that Head. The *State* of that *Evidence* was *This*, and only *This*: for I took very great Notice of it, and heard it repeated many Times. Mr. Neynoe was allow'd by Mr. Kelly's *Prosecutors*, to be a *False Man*; a determin'd *Jacobite*, who pretended to give Information to the *Government*, in order to get some Money for Himself. Out of all his *Informations*, only One was read; and That more in Proof of the *General Conspiracy*, than to any other Purpose. For, not One Fact was believed, not One was insisted on, because He had said it; but only because it was True, and was confirm'd to be True by other concurrent *Evidences*; and was a Proof that, deceitful as He was, He knew a great deal of the *Affair*, though he mixt it with much Impertinence, and some Falshood. Those Parts particularly of his *Examinations*, to which Mr. Kelly so laboriously answers, were so far from being urged against Him, as *Reasons* for the *Bill*, that most of them were not so much as read in Proof of the *Charge*. But as They were all fairly printed in the *Report* of the *House of Commons*, for this Reason, that it might not be said that Anything, given in as *Information*, was hid from the World; Mr. Kelly thought it to his Purpose to make what Use He pleas'd of them. And indeed, it is very true, that if there had been any need of it, He had a Right to shew, by any One Part of Mr. Neynoe's *Examinations*, that He was not to be credited in Another, upon his own Authority only. But He knew, there was no need of it. For it had been declared more than once, that He was not credited, upon his own Authority, in any One thing, except his Confession that He Himself was privy to the *Conspiracy*: Nay, even in *This*, that Some other Points declared by Him were taken in as *Proofs* that He was so, because They were Points of Importance otherwise known to be true, and which Neynoe could not have hit upon, but by being privy to the Design; and that Nothing was alledged against the *Prisoner*, merely because Neynoe had said it.

But the true Secret was this, That if Mr. Kelly should have acted a plain honest Part in this Case, His main Artifice would have been spoilt; and the Great Machine, now resolved to be made use of by Himself first, and afterwards by the Bishop of Rochester, would have been ruin'd, and broke to Pieces. For how could They possibly, in so disingenuous, so inhumane, and so unchristian a Manner, (without any one Proof, or any one Shadow of a Proof,) have by Slight of Hand turn'd the Whole into a Plot of Neynoe and a Minister of State, laying their Heads together for the Destruction of Mr. Kelly and his Great Friend; if They had not attempted to divert the Thoughts of their Judges from Something to Nothing; from strong Evidence urged against Them, to all Neynoe's Impertinence never once urg'd? This is Another Instance I design to give of that Art of Defence, which only can belong to Guilt, and never could have come into the Head of Innocent Men. This appears to be their Master-Piece. The Consideration of it I will reserve for my next Paper: But I will now say thus much of it, that It is a Master-Piece of Wickedness, more than Art; and therefore, a Machine which will, in its Ruin, fall heavy on the Heads of Those who contriv'd it; and help to punish their Old Guilt in what They were charged with, by shewing it aggravated and heightened by That New Guilt, in which They have voluntarily chose (with the Silliness often attending Cunning Men, and the Folly always attending Wicked Men) to defile Themselves.

For such Adepts in Iniquity, though under the Cover of a Holy Function, and many pious Professions, as if all Art was far removed from their Breasts, cannot escape. And since both Mr. Kelly and his Master have Themselves manifestly brought their Cause to this Unhappy Dilemma, "Either this Charge against Us, and the Evidence for it, is all Mere Forgery and Invention, between Neynoe and a Minister of State; or We are guilty, and prov'd so to be." Since, I say, instead of answering like Men to the Strength of the Evidence, They have wilfully made this their Case; and fled from the Proofs of their own Innocence, to Black and Detestable Insinuations and Outcries against Others; let it rest here. It is made necessary by their own Conduct, to enter into this Argument. And if it can be evidently shewn, that this Suggestion is void of all Support; that Nothing led Them to it that appear'd in Evidence; that it was demonstrated to be impossible by what did appear in Evidence; that it is irreconcilable with their own Design in invalidating Neynoe's Credit; that it is inconsistent with many Parts of the Evidence against Them, which were too strong to be so much as mention'd in their Replies; as well as with some Parts even of their own Evidence: If these Things can be made out, (as They certainly can;) They must thank Themselves, if it must appear at the same time, That Guilt once set on Work, knows no Bounds; that

that *Wickedness* cannot be defended, but by New *Wickedness*; that They cou'd be led to this *Invention* only by the *Desperateness* of their own Cause, and *Vileness* of their own Resolution to leave a parting Wound in that *Government* which They could not at present destroy: and that *This* can end in Nothing but their own *Confusion*; the *Detestation* of Good and Honest Men of *All Parties*; and the *Greater Honour* of Those who are thus struck at, against all the Rules of *Religion*, and *Common Justice*.

BRITANNICUS.

P. S. Though I have here thrown out of the Case, what Mr. Kelly has said and insinuated against *Many Passages* in the *Reports*, not urged against Him, and particularly such as relate to *Neynoe*, in order to shew more distinctly how little he has said to what was really urged; yet I have not done this, to avoid these Particulars. For I shall return to Them, and shew that even in *These*, as well as in Other Instances, He has vilely misrepresented the Case throughout, and imposed upon the World in a shameless Manner.

P A P E R II.

THE *Grand Machine*, by which Mr. Kelly and his Master the Bishop of Rochester have chose to defend *Themselves*, I have observ'd, is One and the Same Infamous Accusation and Repeated Insinuation of *Forgery*, fixt upon Those who have done their Country the truest Service in detecting the late *Conspiracy*. This I produced as One of the Greatest Instances possible, of the Art of *Guilt*, delighting it self in a Method of *Defence* which an *Innocent Man* could not pitch upon. And as their *Agreement* in this Artifice, is a Proof that they looked upon *Themselves* as United together in One and the Same Cause; Let Them now equally partake in the *Effect* of their own Choice; and remain as inseparable in the *Guilt* of such a Justification, as They were in the *Guilt* which forced Them to take Refuge in it. A *Guilt*, in my Opinion, as great as can well be express'd or imagin'd: For, To publish to the World such an *Imputation* upon an Administration, without the Strongest Proof, is what Every Good Mind would have avoided, as an *Unjustifiable Calumny*. To publish it, without Any Proof, is what Every Good Mind would have abhor'd, as a Base and Ignominious *Wickedness*. But to publish an *Imputation* of so black a Nature, against plain and demonstrative Proof,—This shews a *Mind* dead to all Sensibility of Duty, and determin'd to sacrifice Every Spark of Honour and Conscience within, to its own Darling Cause, or Personal Resentments. Let us see, if This be not the Case here.

Mr. Kelly begins the Attack openly, p. 9. in this Manner. But if any Credit is to be given to the *Confessions* which my Accuser [*Neynoe*] made to the Person taken up with Him [*viz.* Bingley] it is very plain that those Letters [*viz.* the Three treasonable Letters charged upon Mr. Kelly, as his Hand-writing] must have come from Another Quarter—Then comes the Application. For,

says He, it has been proved—that *Neynoe* confess'd [to Bingley] to have been employ'd by One of the Ministers, and received Money and Promises from Him—that this Minister declared a Prejudice, upon some private Account, to the Bishop of Rochester; was resolv'd to pull down the Pride of that haughty Prelate, and to squeeze Me—to that Purpose. This is the Accusation, blacker than Treason it self. And though the Good Man is heartily sorry to say that there are some Circumstances, which seem to give too great a Countenance to the Truth of it; yet no One, I believe, will doubt but that his Sorrow was only because He could bring none but invented or insufficient Circumstances, to support an Invented Charge of the highest Nature. Here follow the Circumstances. Mr. *Neynoe* might well be supposed to have spoken in the Sincerity of his Heart, at this Time when He saw his Villainy detected; believed Himself to be in the greatest Danger; and depended upon Bingley, to whom He confess'd Himself, to help Him out of his Misfortunes. Besides, the very Cypher by which those Letters were written, (and which He owned to have received from that Minister,) was actually caught up on the Person [Bingley] to whom He [*Neynoe*] gave it; and He confess'd That He put a Paper of Directions into One of my Drawers, by which—most of the treasonable Letters were address'd. And it has been proved that Those Drawers were constantly open.—It is then added, That since He was the first that set the Ministry upon intercepting Letters which He said were mine, it is very extraordinary that such a material Part of his Evidence should be omitted in his Examination; or, that the very first Letters so intercepted should be Those alleged against the Bishop of Rochester.—And [now follows the most Demonstrative Argument of all] if the Originals of those Three Letters were stop'd, I DON'T AT ALL DOUBT, but They might be proved to be my Accuser's [*Neynoe's*] own Hand-writing. These are the several Parts of the Circumstantial Evidence of his Charge against a Great Minister. I have put it all together in one View, that it may appear in its whole Force.

But before I come particularly to consider it, I will just take Notice of Two Things which Mr. Kelly adds upon this Subject. One is, His Inference at the End of this Charge; viz. That a Fellow who was capable of vilifying one Person, may very well be judg'd capable of doing so to Another: And if his Veracity is not to hold good in One Case, there can be no Reason for allowing it in the Other. My Observation is, That, very unhappily to Him, this Inference, which He designs for his own Advantage, ruins his own Purpose, and destroys the Force of all his vile Suggestions against that Minister. For this Matter stands thus. The Charge against Mr. Kelly, and his Eminent Friend, was never made to rely upon the Veracity or Credibility of *Neynoe*. But see the Management of too much Cunning. It was Mr. Kelly's Interest to have it thought, All rely'd upon such an Authority. Upon this, He first attempts to destroy *Neynoe's* Veracity and Credibility

dibility, which simply consider'd was on all Hands given up; and laboriously to prove a Man *false*, who was on every Side allow'd to be so. As soon as He has destroy'd (as He thinks) the *Credibility* of this Man, He then brings to Life again that *Credibility* of the Same Man thus destroy'd, and makes use of it in the foulest Charge against a *Great Minister*. But with this remarkable Difference on each side, That *Neynoe's* Evidence used against Mr. Kelly, was used only as concurrent with other Proofs of the same Facts; and was directly written down from *Neynoe's* own Mouth; and, upon reading it twice over to Him, was solemnly and repeatedly acknowledged by Himself to be true, before several Lords of the *Council*: But that *Neynoe's* Evidence, as us'd by Mr. Kelly against the Government, is not direct Evidence from *Neynoe*, or written down from his Mouth, and attested to be own'd by Him; but is indeed *Hearsay* from *Another*, and no more than *this*, That *Bingley* says, He heard Kelly say some Things, which do not in themselves immediately and directly import any Plot or Contrivance between *Neynoe* and a *Great Man*, against the *Bishop*, through Mr. Kelly; but from which, by way of *Speculation* and *Deduction*, Mr. Kelly infers such an infamous Conclusion. We shall presently see what these *Points* truly are, and compare his *Conclusion* with them.

The *Other* Thing I design'd previously just to take Notice of, was the Account Mr. Kelly gives of *Neynoe's* Attempt to escape. It was, it seems, the strong Sense He had of his own Guilt; and its proving fatal to Him, was no less than the Hand of God visibly interposing in that Eminent Prelate's Favour, by taking this Person, design'd for his Destruction, out of the World. I have been so used to see and hear the Name of God, and his Providence, prostituted to the vilest Ends of Humane Passion, that I am now little moved by the Application of such sacred Sounds, unless it be to be more upon my Guard against yielding to any Impressions from them, without other Proofs of *Probability*. As to this Incident, it is impossible not to observe, that the Turn here given to it by Mr. Kelly, is *Absurd*; and that the setting the Seal of Providence to it, is assuming *Impiety*. The Turn is *absurd*, in the Face of his own Evidence; from whence it appear'd that *Neynoe* attempted his Escape, not because He was sensible of his own Guilt with regard to the *Bishop*; but because He was still a determin'd *Jacobite*, and resolv'd not to be an Evidence in the Affair. And it is a peculiar Mixture of *Impiety* and *Impudence*, to introduce the Providence of God, as taking Him away for such an End; because it had been more for the *Bishop's* Service and Mr. Kelly's, if Providence had not taken Him out of the World, but had help'd Him in his Escape; as He was now determin'd not only not to be an Evidence, but to confound, as much as He could, Every Thing which He had pretended to let the Administration into; and had so deep a Sense, according to

Mr. Kelly, of his former Guilt. And this He might have had some Hopes of doing, with that great Dexterity He was Master of, if it had been his good Fortune to have escaped to France. For Mr. Kelly knows the Benefit and Ease of obtaining Letters and Affidavits from thence. However, One thing I am glad of, that this Gentleman's Zeal to interest Providence visibly on the Part of the Bishop, has made Him acknowledge that his Old Friend was thus taken away, in his Attempt to make his Escape; and this after his examining Witnesses to that Fact:—Whether from the Force of Truth, or the Apprehension that the contrary Supposition would lie nearest, on his own Party and his own Cause; I will not determine. Let us now return to the Charge.

Bingley testifies upon Oath what *Neynoe* is here said to have confess'd to Him.—This is the Chief Witness to support such a Charge. But this very *Bingley* was proved, and owned Himself, to have been convicted, whipt, pillory'd, and imprison'd at Dublin, upon Two Indictments, for publishing a Treasonable Book, and speaking Treasonable Words; and this, after having taken the Oaths to the Government: Which, tho' not indeed Perjury in a Cause before a Court of Justice, yet implies in it, effectually and truly, Falshood and Perjury; and perhaps so circumstanced, as to make Him a less credible Witness in the present Case, than if He had in a Common Trial proved Himself a Perjured Witness. For, at the same time that here is Evidence of his little Regard to an Oath, which alone makes his Testimony upon Oath, in itself, light and insignificant; here is also Evidence of his Zeal for the Pretender's Cause, above the Sense of the most sacred Obligations; which renders his Testimony still more light and insignificant, when given for the Service of that very Cause, which first taught Him Falshood and Perjury. And how little Sense He had of any Guilt upon this Account, appear'd when, being ask'd at the Bar, (in the Bishop's Trial,) Whether He had not taken the Oaths to the Government, at the Time of taking his Degree; He impudently cry'd out, *My Lords, You all know the Nature of taking the Oaths. There were several crowding to do it at once; and I am not sure, whether I laid my Hand upon the Book, or not: and the like, without Shame or Decency.* I grant, that in the Bishop's Trial, other Witnesses were call'd, to relate what *Neynoe* had said to the same Purpose, in Conversation with Them. When I meet Them there, I shall do Them Justice; and shew that their Testimony and their Story were less credible, if possible, than the Others. But, as *Bingley* is the Witness to whom Mr. Kelly appeals, and upon whom He relies, it will be now Time to see what his Testimony amounts to.

1. *Neynoe* told *Bingley* that He received some Money, and Promises of more, from One of the Ministers. But here Mr. Kelly suppresses what *Bingley* testified, that *Neynoe* Himself told Him, that this Money, and these Promises, were

given Him, to encourage Him to discover what He knew, and to find out what He did not know; particularly, the *Persons* who were design'd by such and such *Fictitious Names* in the treasonable Correspondence. But that *Honourable Person* Himself, who is thus highly injured, did at the *Bar*, and upon his *Oath*, give so distinct and plain an Account of his Transaction with *Neynoe*, that it seem'd universally and fully to satisfy all who heard Him. *Neynoe* wrote Him a *Letter*, offering to discover Matters of great Importance to the *Government*. It had been Breach of Duty, in any *Minister*, not to receive or hear a *Person* making such an Offer, in so critical a Time. He did receive Him, and kept Him so strictly to his own Offer, that, after much trifling, *Neynoe* went so far as to tell Him several Matters, which convinced that *Minister* that He was privy to the *Conspiracy*, and knew a great deal more. For they were such Particulars as *Neynoe* could not come to the Knowledge of, but amongst *Those* engaged in it. Being so convinced, It was the *Duty* of that *Great Man* to support and encourage this *Person* to go on; and to give Him Money, if necessary, in Expectation of his making farther Discoveries. Accordingly, for this Purpose, a Sum of Money was given, not pretended to amount in the Whole to more than 350*l.* and this, at several Times; and the Promise of more, whatever it was, was acknowledged on all Hands to have been in order to obtain the most important *Discovery* of the *Persons* concern'd under *Fictitious Names*. And what is there in all this, contrary to the Rules of the most *Honest Policy*? To go on.

2. This *Minister* declar'd to *Neynoe* (as *N.* told *Bingley*) a *Prejudice*, upon some private Account, to the *Bishop* of *Rocheſter*; and that He was resolv'd to pull down the *Pride* of that haughty *Prelate*, and to squeeze *Mr. Kelly* to that Purpose: and therefore, the *Three Treasonable Letters*, which are the only Points in question, were a Contrivance of *Neynoe's* to assist a *Minister* in this Plot against the *Bishop*. This must be the Conclusion, He would insinuate from hence. I will not here argue from the high *Improbability* of a *Minister* of *State* thus unnecessarily disclosing his *Repentments* against a *Prelate*, to a *Person* whom He had already found false, and acting a double Part; and who was so perfect a *Stranger* to Him. There is no need of such Arguments. *Facts* themselves will always be sufficient to furnish Confusion to such wicked Suggestions. The *Honourable Person*, so barbarously struck at, testified upon *Oath*, at the *Bar* of the *House* of *Lords*, that through his whole Life there never had happen'd the least private Matter between Himself and the *Bishop* of *Rocheſter*, which could create any Personal *Prejudice* in Him: and therefore, that He could not have said any such absurd thing. But, what is above all Contradiction, The *Three Letters*, which are here said to be thus forged, in order to furnish the Chief Charge both against *Mr. Kelly* and the *Bishop*, were in

fact intercepted about three Months before that *Minister* had ever heard of such a Man as *Neynoe* in being; as We shall see more fully hereafter. Nay, there is an infallible Argument to be drawn from the *Impossibility* of the *Supposition*, that a *Minister* should encourage the Invention of a Plot against a *Prelate*; nay, help to contrive it Himself; and at the same time should say to the *Person* who was to assist in this Contrivance, that He would squeeze one *Mr. Kelly* to tell something, or testify something of this *Prelate*; which *Mr. K.* could not testify to any Purpose, nor so much as have any Knowledge of, if the Whole were only an Invention between that *Minister* and *Neynoe*. This is *Self-Contradictory* Nonsense. To speak of squeezing *Mr. Kelly*, supposes a Persuasion that *Mr. Kelly* knew something. And if this were all a Contrivance between Two *Persons*, it is impossible They should speak together of squeezing a Third *Person*, who could not be thought by Them to be in a Real *Conspiracy*, whilst They knew there was none; and was not at all privy to their supposed Wicked Design of inventing One. If therefore, That *Minister* did not say any such Words to *Neynoe*; as I believe Every Man of Sense will think it evident He could not; there is an End of this silly Hearsay Argument. But if He did; and it could be proved that He had said these very Words to *Neynoe*, They are so far from implying either that He Himself had forged any one Circumstance of such a Mock-Plot, or that He had employ'd *Neynoe* to any such detestable Purpose; that They certainly imply the contrary, viz. That He at that Time knew the *Bishop* to be engaged in a Real Plot, and *Mr. Kelly* to be in the Secret with Him. Otherwise, He could not possibly propose to Himself, to squeeze the Latter, in order to come at the Former. Add to this, That *Bingley*, through his whole Evidence, never so much as insinuated that *Neynoe* had at all laid it to that *Minister's* Charge, that He ever once attempted to persuade Him to forge, to invent, or to falsify; but indeed, that He employ'd Him to quite another Purpose, that of discovering the Truth, and finding out the *Fictitious Names*; and prest him to nothing but to confess what He knew, and to be a Legal Evidence of what He should so confess. And this, all the World will allow, is a Part agreeable to the Character of a *Minister*, and to the Duty of a Lover of his Country.

After these Observations, it is needless to remark how insignificant it is, in *Mr. Kelly*, to argue that this Confession made to *Bingley* must be sincere, because it was made after *Neynoe* was taken at Deal; at a Time when He saw his Villainy detected, and believ'd Himself in the greatest Danger; and wanted *Bingley's* Assistance to help Him out—For it appears that, take the Confession as *Mr. Kelly* Himself has partially and invidiously related it, and suppose it to be never so sincere, it amounts to no more, than that *Neynoe* own'd He had receiv'd Money from One of the *Ministers*, for a good and justifiable End; and

and that That Minister was angry with the Bishop of Rochester, and thought He had discover'd enough to come at Him, through Mr. Kelly. But see how inconsistent and insufficient all such Inventions as these are. For Neynoe's Want of Bingley's Assistance, join'd to his Knowledge of his Principles and Party-Zeal, is a Proof of the very contrary; and gives Ground to think that Neynoe would not be sincere with his Companion; nor suffer Himself to tell Him any thing but what should engage Him (whom He knew to be a Jacobite) to serve and assist Him at such a Juncture. But, what is still more absolutely irreconcilable with Mr. Kelly's own Design, He represents Neynoe as having receiv'd Money, in order to be a Villain, or a False Accuser; to help a Great Man to reach the Person of an Eminent Prelate; and calls Neynoe, the Person designed for the Destruction of that Prelate; making the Whole a Plot between Neynoe and that Great Man: and then, forgetting Himself, dates the Discovery of his Villainy from his Apprehension at Deal. Whereas, if there be any thing besides Wicked Invention in these Wicked Suggestions; the Minister, who employ'd Him, knew the Villainy from the Beginning: nor could Neynoe apprehend Himself to be at all in Danger from that Villainy, which He is at the same time supposed to have enter'd into, by the Direction of that Minister, who is here absurdly said to have discover'd it, long after He must have known it. But who can wonder at this Self-Contradiction, when Mr. Kelly again forgets Himself so far, as to represent the same Minister, even after this Discovery of Neynoe's Villainy, and after the Death of Him who was his only Assistant, as still pursuing the same Design against the Bishop and Kelly, tho' He knew it to be all an Invention; and tho' Neynoe, who had invented it, and who alone could support it, was dead and gone. It is almost an Insult upon the Common Sense of Mankind, so much as to point out such flagrant Inconsistencies, and Self-contradictions; much more, to insist upon them.

The Importance of this Enquiry, and the Wickedness of this Charge, have carried Me already beyond bounds. Several Circumstances of it remain still to be consider'd. I don't avoid them, but delay them to the next Opportunity, with an Assurance that They shall be proved to be mere Impossibilities in Fact; or mere Inventions of this Conspirator and his Great Master, as a Supplement to their Part in the Conspiracy, and Marks of their continued Zeal and Virulence against a Government, which They are resolv'd to shake by the vilest Calumnies, since They cannot prevail to overturn it by more open and direct Assaults.

BRITANNICUS.

PAPER III.

I Will now consider the remaining Circumstances which Mr. Kelly produces, as Evidences of that Imagin'd Forgery in Others, by

which He would hope to cover the Real Treason of Himself and his Great Friend.

3. The very Cypher (says He) by which the Letters [viz. the Three Letters charged upon Mr. Kelly] were written (and which He [Neynoe] own'd to have receiv'd from that Minister) was actually caught upon the Person [Bingley] to whom He [Neynoe] gave it. From hence Mr. Kelly hoped to in-sinuate this wicked Conclusion, That this very Cypher had been invented and agreed upon, by that Minister and Mr. Neynoe, to write those Letters by, which were afterwards to be fixt upon Mr. Kelly and the Bishop. But this Piece of shameless Invention is destroy'd, not only by its own Absurdity, but by its Contradiction to the Truth of Facts, even as They stood in Bingley's own Story; and much more, as They appear'd in the Whole Evidence. In the first Place, there was no Cypher taken upon Bingley, neither did B. pretend there was. The Paper taken upon Bingley, which He had received from Neynoe, was a Catalogue of Fictitious Names, acknowledg'd to be given Him by that Minister, for Him to find out the Persons truly meant by all of them: over against Some of which, Neynoe had writ the Names of some Persons, as signify'd by them. This agrees exactly with what Bingley Himself said: viz. That Neynoe told Him, his Errand was, to find out the True Names signify'd by the Fictitious Names in that Paper. And this it self is a Demonstration, that Whoever gave Him this List of Fictitious Names, did not give Him at the same time the Names of the Persons supposed to be meant by Them; because This was the Point, He Himself was employ'd to discover. This is the Paper, and This only, which was found upon Bingley, to whom Neynoe had given it. And the False Conjectures written over against Some of these Fictitious Names by Neynoe Himself, being perfectly different from Those that were always understood by the Ministers to be meant by Them, is an additional Evidence, that This could not be any Agreement to contrive the Correspondence in Question under these Names; which are some of them represented by Neynoe to signify Persons, whom thro' the whole Correspondence They are not interpreted once to signify; and which thus interpreted, instead of explaining, absolutely destroy the Sense of all the Intercepted Letters. For instance, against Mrs. Killigrew is writ Pr. Sobieski; though Mrs. K. is described in the Letters, as in England, and having a sick Daughter, &c. which Circumstance pointed plainly to Mr. D. Kelly's Family. Over against Digby was writ the Pretender, though that Name was well known to the Ministers to mean General Dillon. What therefore, can any One think of the Conscience of a Man, who can represent This Paper to the World, as the Cypher by which the Letters in question were writ; and, merely out of Revenge on Those who have detected his Treason, can invent such a Material Fact, against the Tenour of his own Evidence, as well as of the Contrary? Mr. Kelly goes on.

4. Neynoe

4. Neynoe confess'd [*viz.* to Bingley] that He put a Paper of Directions into one of my Drawers, by which most of the treasonable Letters were address'd. And it has been proved that those Drawers were constantly open.—This looks plain and positive. And yet, plain and positive as it appears, it is All nothing but Downright Falshood, and Wilful Invention. The Messengers employ'd about this Affair, did Both give Evidence upon Oath, that This very Paper of Directions was taken, not in any of Mr. Kelly's Drawers, but in his Pocket. Besides, Two other Circumstances bear Testimony against Mr. Kelly in this. The Paper was in his own Hand-writing: and Neynoe was not known to, or heard of by, any of the Ministers, till Nine Weeks after that Paper was taken in Mr. Kelly's Pocket. How base is it therefore, to insinuate as if This might probably be left in one of his Drawers by Neynoe, from his having been alone in his Room, the Night before he went to France: when this very Paper of Directions, about which He is speaking, was taken upon Himself, some Months before that Night. So that it must appear an excellent Argument in Mr. Kelly's ingenious Mouth. Neynoe once left a Paper in one of my Drawers: therefore, a Paper of Directions for treasonable Letters, taken in my Pocket, and writ in my own Hand, is that very Paper which N. writ and left in my Drawer, some Months after it was seiz'd upon my self. But I must not here forget the Evidence call'd by Mr. Kelly Himself, the Servant-Maid of the House, who, when she was examin'd upon Oath, testify'd that Neynoe wrote something in Mr. Kelly's Room; that, whatever it was, He folded it up in the Shape of a Letter; and that N. was so far from making a Secret of it, (as He must have done, if it had been Part of the Plot against Mr. Kelly) that He Himself bid this Servant tell Mr. K. as soon as He should come Home, that He had left a Letter for Him in One of his Drawers: which Circumstance is absolutely inconsistent with any Villainous Design against Mr. Kelly.

5. The Accusation goes on thus—Since Neynoe was the first that set the Ministry upon intercepting Letters, which He said were mine, it is very extraordinary that such a Material Part of his Evidence should be omitted in his Examination; or, that the very first Letters so intercepted should be Those alledged against the Bishop of Rochester. But all this again is a vile, affected, wilful Misrepresentation of the Fact; framed only for carrying on the Insinuation, that Neynoe was the Great Contriver of this Plot from the Beginning; and disproved in a Moment, by only calling to Mind, what was testify'd upon Oath at the Bar, *viz.* That these Three Letters were stop'd and copy'd at the Post-Office, three Months before ever Neynoe's Person, or Name, was known to any One of the Ministers. They were stop'd the latter End of April. Mr. Kelly was taken up the 19th of May. Mr. Walpole never saw nor heard of Neynoe till the 28th of July. And Fact it self entirely corresponds with this. Neynoe's Letter was

produced and read, in which He makes his first Offers to be serviceable to the Government, and desires an Advertisement to be put into the next Gazette, which was done July 31. Upon which, He came to Mr. Walpole, by the Name, as I remember, of Walton. His Examination was not taken till the Middle of September, after his being brought up from Deal. Mr. Kelly (too grossly to be thought sincere) wonders why no Notice should be taken, in his Examination, of Points, which never were true in Fact, and never could be. Neynoe was so far from being the first who put the Ministers upon stopping or intercepting Letters, that He was not known to One of Them till three Months after the first Letters were stop'd. And that these were stop'd, was owing entirely to the Intelligencies from abroad, long before N. was heard of. That the first Letters stop'd were the Letters alledg'd against the Bishop and Mr. Kelly, was because These were found at that Time at the Post-Office, going for France, when the Ministers first thought it expedient to search after such Letters. But Mr. Kelly (who would willingly make a Mystery of a plain Fact, by confounding Times and Things, against all Evidence,) wilfully forgets that Neynoe never laid these three particular Letters to his Charge; nay, as it appear'd, never knew that there were Three such Letters intercepted. What He said in his Examination was in general, That Mr. Kelly was Secretary to the Bishop of Rochester, in the Treasonable Correspondence then going on; and the like. And therefore, He need not wonder that the Part of Neynoe's Evidence about these Three Letters in particular, should be omitted; when it is evident there never was, nor could be, any such Part of his Evidence, as could relate to what He Himself knew nothing of, and was never ask'd about.

6. When all will not do, Mr. Kelly has Recourse to Mere, Native, Genuine, Unblushing Assurance. And (says He) if the Originals of those Three Letters were stop'd, I DON'T AT ALL DOUBT, but they might be prov'd to be my Accuser's [Neynoe's] own Hand-writing. This is, indeed, a Master-stroke of Determin'd Calumny. But were Malice and Rage are strong, They seldom take Counsel of Wisdom or Decency, or even Probability. For, otherwise, Could a Man of Mr. Kelly's Sense, possibly let such a Ridiculous Assertion slip from him? Could he imagine Neynoe forging (as He supposes) a Plot;—arming Himself with all his Cunning, to manage it dexterously;—writing Letters on Purpose to be stop'd, and taken for Mr. Kelly's;—and, at the same time, writing these Letters, not in Imitation of Mr. Kelly's Hand, but in his own proper Hand?—that is, contriving a Plot against Another in such Manner, as certainly to fall upon his own Head? Did ever Man, who was to fix Letters upon Another, contrive to write Them in his own Hand; and this so plainly, that the Other should have no Doubt to prove Them to have been his Hand-writing? And if these Original Letters were forged, to be fix'd

fix'd upon Mr. Kelly, how came the *Originals* to be allow'd to go forward? How came they to produce *Answers* from Abroad? And how came Mr. Kelly Himself to receive Any of those *Answers*, as We shall see in the *Sequel* of the Evidence? I might ask too, If this had been so, Why did not *Neynoe*, who had at last so deep a Sense of his Guilt, according to Mr. Kelly, and who confess'd several Things to *Bingley*; Why did not He own this greatest Guilt, and give B. Commission to say that these *Three Letters* particularly were forged by Himself? Since, if He were truly penitent for Injuries done to Mr. Kelly, He could make no Satisfaction without such an express Acknowledgment. But there was no Appearance of any *Tendency* towards any such *Reparation* as This, throughout the Whole of *Bingley's* Story. And this shews that *Neynoe* knew nothing of these *Three* particular *Letters*.

As I am now considering the *vile Imputations*, Mr. Kelly's fruitful Invention has laid upon the *Administration*; I will, before I go to the *Positive* Evidence against Him, put together his *Other Complaints* in p. 12. which seem to point the same Way. He represents it as a singular Hardship to have been held to a considerable Bail, for a Crime, which would have justify'd a much severer Conduct towards Him. And because the Nature of such Discoveries did not admit the specifying what Particulars were then laid to his Charge; the Want of This is added to the Number of his *Grievances*. He laments a long and close Confinement, where the Expence bore no Proportion to his Circumstances. And yet, mean and helpless as He represents Them, when a Sum of Money of above Thirty Pounds came to Him from the Government, He so little needed it, that He makes it his Boast in p. 13. that He made no use of it, but gave it to the *Warders* appointed to attend Him. So well was He supply'd, either from Himself, or from *Other Hands*. But this is not all. It seems, it is now a great Crime in Those in the *Administration*, to endeavour to produce sufficient *Proofs* to the World of that *Treason* which lies already before Them, in a Light too plain to be doubted of. Every Attempt to examine Persons to this Purpose, is declared to be *tampering* with them. Every Endeavour to persuade Persons to speak the Truth, in order to save their Country, is construed to be little less than *Subornation*. Nay, when Mr. Kelly is setting forth his *Grievances* in moving Complaints, He is so absurd as to mention the Examination of People, some of them of the meanest Rank,—of a *Servant* of his own,—of *Friends* of his own,—of a *Person* in Newgate,—as *Aggravations* of his Misfortunes. Whereas, Who so proper to be examin'd, as *Acquaintance* and *Friends*, and Those who are most likely to know what They are examin'd about? And how much greater a *Hardship*, how much juster a Ground of Complaint, would it have been, if Mr. Kelly could have urged, That Persons not at all acquainted with Him, perfect Strangers, such as had never seen or known Him, had been treated with, to

testify against Him what They could not know? Had This been the Case, Mr. Kelly would have rejoic'd to have turn'd the *Complaint* thus. But as it was not, I can easily conceive that his Guilt is Reason enough for his Anger, that Those Persons were examin'd about Him, who were the only proper Persons to testify any thing either of his Behaviour, or his Hand-writing. That Any of his Intimate Friends were imprison'd for not swearing against Him, as He without blushing affirms, is an *Infamous Imputation*, which the same unrestrained Conscience alone can pretend to justify, that first permitted Him to invent and utter it, without the least Shadow or Pretence of Proof, or the least Insinuation to this Purpose, from any confined Persons Themselves. Mr. Kelly alone is Bigot enough to his Cause, to lay This to the Charge of the *Administration*, at the Expence of his own Understanding and Honesty.

And He indeed, appears too much harden'd, to stop his Imputation here. For, after having weakly call'd these Proceedings (which are the Necessary and Common Proceedings of All Administrations in Cases of Conspiracies) by the Name of *Hardships* hitherto unheard of in England, He goes on to a new Instance of Infamy. All which (says He) is of a Piece with an *Infamous Offer* made to Myself by One of the Under-Secretaries of State, who—came to Me with a Message, as He said, from One of his Superiors, to let Me know that I had now a very good Opportunity of serving Myself, and that He was sent to offer Me my own Conditions. And when I declared Myself an entire Stranger to the Conspiracy, and was sorry to find that Noble Lord have so base an Opinion of Me, He seem'd to wonder that I should neglect so good an Occasion of serving Myself, especially when I might have any thing I pleas'd to ask for. You see that, in the midst of all his Rancour, Mr. Kelly's tender Conscience did not permit Him expressly to assert that He was solicited to be a False Witness, or to invent an Accusation, and testify a Forged Crime, against any Man. But the Insinuation is plain; and would indeed be much stronger than it is, were it not that the Person here meant, Mr. Delafaye, came to the Bar, and upon Oath not only contradicted, but confounded the Inventer of it. That Gentleman declared, that He had been in publick Business during the Course of Five and Twenty Years; and hoped He might appeal to a Great Number of Persons of the highest Rank, to whom He had the Honour to have his Conduct known, That He was neither so Weak, nor so Wicked, as to carry any such Message, as could be in any Sense call'd Base and Infamous; nor was the Noble Lord pointed at, capable of sending any such: That the Day after Mr. Kelly's first Examination, He went to Him, to see if He were in a better Disposition than He had shew'd the Day before; and might then very probably say to Him, that the Way to obtain the favourable Opinion of the Lords of the Council, was to make a frank open honest Confession of the Truth; but that as to any Offers to Mr. Kelly

of his own Conditions, or Offers of any sort, He solemnly declared, He neither directly nor indirectly made any such. Nor could any Words used by Him (*He said*) be so understood, by any Man of Common Sense, much less by a Man of Mr. Kelly's Good Understanding. This Testimony, join'd with the acknowledg'd Character of Mr. Delafaye, had such a Visible Effect, that I remember Mr. Kelly seem'd struck and stunn'd with it. However, as He thought it necessary to say something, He inadvertently in his Confusion let fall an Unguarded Expression, which help'd to shew that He had not been press'd to testify to *Falshood*; but that He knew a good deal of *Truth*, which He would not tell. For, He alledged that He had written down what had pass'd between Mr. Delafaye and Himself, immediately after their Conversation together; and that the Paper it self, in which He had written it, was taken amongst the Bishop of Rochester's Papers, as the Bishop's Secretary had told Him: and to this Paper He appeal'd. Mr. Delafaye reply'd, that the Papers taken at the Bishop's were mark'd by the Bishop's Secretary, and tied up in his Presence; and that there was no such Paper amongst them: and to This One of the Secretaries of State likewise testified. This shews that the Paper had been destroy'd before the Bishop's House was searched. But Mr. Kelly's Account of it too plainly proves, that there was a Correspondence between Mr. K. and the Bishop, as between Persons concern'd in the same Cause; that Mr. K. thought it of Importance to that Prelate, to inform Him of Every thing that pass'd in his Examinations, of which therefore He sent Him Minutes; that Mr. K. was well acquainted with the Bishop's Secretary, and had discours'd with Him about the Papers seiz'd at the Bishop's: And all this is a Proof, naturally and unwarily given by Mr. Kelly Himself, of that more than ordinary Correspondence and Alliance with that Prelate, in this very Affair of the Conspiracy, which He was endeavouring, if He could, to hide and palliate. For the Bishop could not have had that Paper of Kelly's Writing, but from Kelly. Kelly could not send it, but because it was of Concern to the Bishop, to know his Firmness to the Cause, and his obstinate Silence. This could not be of Concern to the Bishop, but because the Bishop was in such sort engaged in the same Cause, that it was in Mr. Kelly's Power, by speaking Truth, to hurt Him. And by the Way, This gives Light to the Letter D. 45. in the Appendix to the Report of the H. of Commons, written without doubt by Mr. Kelly, in which particular Mention is made of a Paper, as taken amongst the Bishop's, giving an Account of Kelly's Examination before the Council; and exposes the poor Artifice there mention'd, of the Bishop's endorsing it with his own Hand, *This came from an unknown Hand*.

I have now done with Mr. Kelly's direct Imputations upon the Administration. I shall in my next proceed to his Account of his own Case, and his State of the Evidence against Himself;

which shall be shewn to be as entirely false, as the Other has been prov'd extravagantly Wicked. The Sense of which forces Me to say, before I quite leave Sight of the Subject, "That there are no Enemies so terrible, or so detestable, as Those, whose Religion, whose Piety, whose Consciences, can permit and engage Them to falsify, to invent, to propagate Every thing that is Infamous, to the Ruin or Hurt of their Country; but will not suffer Them to speak One True Word, or do One Honest Action, for its Preservation and Security. From such Consciences, and from Those that have Them, Good Lord deliver Us!"

BRITANNICUS.

PAPER IV.

I Come now to the positive Evidence, in Support of the Charge against Mr. Kelly: and to shew the Artifice He uses in stating, representing and evading it. The main Charge against Him was, that "He was the Writer of Three Treasonable Letters, supposed to be for the Pretender, the Earl of Mar, and General Dillon; and that He sent Them to Mr. Gordon at Boulogne, with Directions to be deliver'd to one Mr. Talbot." The Evidence given of this, He states p. 7, in this Manner. "And for Proof of This, the Clerks of the Post-Office are produced, who swear, That those Letters were (to the best of their Knowledge) written in the same Hand with an Original which was stop'd as a Specimen of it; which Original has been sworn by Two Persons to be my Writing, and consequently, Those Letters must be too." Against the Former of these, viz. the Oaths of the Clerks of the Post-Office, Mr. Kelly argues thus, p. 7. "These Letters (viz. the Three Treasonable Letters) are dated the 20th of April, and the Specimen so stop'd, the 20th of August: Just four Months after. And how it is possible for People (who receive such a Number of Letters) to swear to a Likeness of Hand, at such a Distance of Time; and what Weight ought to be laid upon this kind of Evidence,—must be submitted." But Mr. Kelly Himself knows, and knew when he spoke it, that All this is false. The Clerks were ask'd several times, in his Hearing, Are You sure that the Three Letters of April 20. were in the same Hand with That of Aug. 20? The Answer They gave was, Yes, as sure as They could be about any Hand-writing in the World. It was then ask'd, How can You be sure of this, at the Distance of Four Months? Could You pretend to carry in your Memories the exact Traces of any Hand so long? Their Answer was, No: nor would They pretend to say what they did, upon such a Memory. But, They affirm'd, there was hardly a Week, from April 20. to Aug. 20. in which They did not see, and copy, One or more Letters in this same Hand: by which Means They came to know it so well, that They could, by seeing the Superscription only, pick out the Letters of this Hand-writing, from the whole Lump of Letters,

Letters, as They always did. There was One thing, indeed, very remarkable, and which will help to prove the *Hand-writing* to be Mr. Kelly's; viz. that the *little Time* in this *Interval*, in which No Letters came to the *Post-Office* in that *Hand*, was the precise Time whilst Mr. Kelly was in Custody, before his being *Bail'd*, and was not suffer'd to write what He pleas'd; but that, as soon as He was *bail'd*, and could write freely, They came again, and continu'd so to do *Every Week*.

It being therefore, plain that the *Clerks* must have been very good Judges of a *Hand*, which came before Them, and was copy'd by Them, *Every Week* for near *Four Months*; and not seen only twice in that Space of Time, as Mr. K. and the *Bishop* disingenuously represented it, against repeated Evidence: And this very Distance of *Four Months* from the first Letters in this *Hand*, (so magnify'd by the *Bishop* and Mr. Kelly) appearing from hence to be a *singular Advantage*, instead of a Detriment, to their Testimony; the next Point is, What Answer, Mr. Kelly makes to the Evidence given to prove that *Original* of Aug. 20. to be His *Hand-writing*. In p. 7. He goes on thus. "And as to the Persons who have sworn to my *Hand*; — One of Them is a Messenger, who never saw any of my Writing, but the *Supercription* of a few Letters. — Besides, He was turn'd out of his Employment upon my Account: and a few Days after He gave this Evidence in the House of Commons, I saw a Paragraph in the *News-Papers*, that He was restored to it again. And as to the Other, — He is a Servant who attended Me only about three Weeks, and was turn'd off for an *Infamous Action* — Besides, He has confess'd, that He never saw Me write but as He went backwards and forwards in the Room, and at such a distance as not to be able to distinguish One Character from another: And it has been proved by Two Witnesses, (One of which was a particular Friend of his own) That He declar'd, He never knew any thing of my *Hand*, but was threaten'd by the Secretary of State into the *Affidavit* which has been printed to that Purpose in the Appendix." These are his Objections to the Evidence of Hutchins, and Malone: entirely again contrary to Truth and Fact. For Hutchins the Messenger declared at the Bar upon Oath, that He sat close by Mr. Kelly, while He wrote, at different times, Ten or Twelve Letters; Three of which He remember'd were to Carte; and that He read the whole Body, Every Word, of all those Letters, before He deliver'd them; and that This He was strictly enjoin'd to do by One of the Secretaries of State, and did it exactly according to those Orders. After this, How could This be honestly represented as the Testimony of a Person, who never saw any of his Writing, but the *Supercription* of a Few Letters! As to his Insinuation, from a *News-Paper*, in which perhaps He Himself might have purposely procured it to be inserted, of Hutchins's being restored to his Place; it is infamous, because He knew it to be otherwise. For Hutchins Himself had upon Oath de-

clar'd to Mr. K's Face, that He was not restored to his Place; nay, the Place was known to be then filled up, (as it now remains,) with Another Person,

As to Malone, It is of no Importance whether He was turn'd away for too great Familiarity with a *Maid-Servant*; or whether the Pretence only was taken from thence to dismiss Them Both for something else, which it would not perhaps be very much for Mr. Kelly's Honour to enquire into, at a Time when He seems rather willing to appear as a Man of Religion and Conscience, than a Man well acquainted with the Gallantries of the Town. The same Vice is as infamous for the Master, as for the Man: and if That were sufficient to destroy the Validity of Evidence in a Court of Justice; I am sorry to say it, I fear Mr. Kelly Himself could not be admitted in any Cause as an Evidence; nay, that there could be no longer any Justice subsisting, for want of Evidence: so common are some Town-Vices grown. The Points which are of Importance in an Evidence, are of another sort; whether He speaks consistently, and probably; and whether He has given no known Proofs of his Disregard to Truth, and Contempt of an Oath. And nothing of This appear'd in this Case. Malone deposed, that He had frequently seen Mr. Kelly write the Directions of Letters; which Letters He [Malone] afterwards carry'd to the *Post-Office*; and view'd them, and read them, as He carry'd them. And that which made his Evidence particularly of Force with regard to the Letters in Question, was, what He testified upon Oath, that several of Those Letters which He had formerly carried to the Post, had the same Direction with that of the Original Letter of Aug. 20. which he had remark'd so much, as to repeat it by his Memory, A Monsieur Monsieur Waters Banquier a Paris. These former Directions He remember'd; and swore that the Hand of this Original Letter shewn Him at the Bar, was that same Hand in which Those Directions of Letters formerly deliver'd to Him by Mr. Kelly, and carry'd by Him to the Post, used to be written. What appear'd of Terror was, Not that Any Great Man had terrified Him; but that He Himself, appearing before such Great Men, (as it was very natural) had been in some Terror and Confusion. He utterly disown'd, upon Oath, any Threatning, or any Promise, or any thing like them; and utterly deny'd that He had said any thing to Any One, of his not knowing Mr. Kelly's Hand; but appear'd very candid, as well as very consistent with Himself.

Indeed, Something at the same time appear'd, not very much for the Honour of Mr. Kelly, or of his Friends; that One Fitzgerald had been tampering with this poor young Man; that He had made Him drunk, in order to pump something out of Him; and had, when He had got Him into that Condition, writ down from his Mouth some Heads, or Memorandums, relating to Mr. Kelly, and to Malone's Examination

nation, and had prevail'd with Malone to sign this Paper. Malone remember'd so much, as to own this: and Fitzgerald Himself own'd it; and declar'd, that He did it out of *Friendship* to Malone, in order to mark down some Heads to help Malone's Memory, that He might be the more sure of what He should go on to say upon that Subject. And now appear'd a very scandalous Scene. It was ask'd, Who took and kept that Paper, so sign'd? It was answer'd and own'd, that Fitzgerald took it. He was then ask'd, Why he did not produce it? *What* was become of it? He said, He did not know,—He could not find it,—He had lost it,—and the like. He was then press'd, Since You swear Yourself, that You wrote down all this only and solely to refresh Malone's Memory, to what Purpose did You get Him to sign it? And above all, How came You to take away with You a Paper, which could not be of use to Malone's Memory, but by being left with Himself? No Answer could be framed to these Questions, but what made the Appearance worse. And all that was evident from this Witness, (call'd by Mr. Kelly Himself,) was, That there had been an *Infamous Juggle* to make a poor Fellow drunk, in order to make Him sign something for Mr. Kelly's Advantage; and that, even in that Condition, They could get *Nothing* out of Him, which it was thought for Mr. Kelly's Interest to produce, or so much as to preserve in being. All this did strongly, in the Opinion of Those who heard it, corroborate, instead of weakening, the Truth of Malone's Evidence.

Mr. Kelly appeals likewise in p. 7. to some of the Letters referr'd to by Hutchins, which were produc'd at the Bar, and might be seen, as He says, to bear no Resemblance to that Original of Aug. 20. and adds, p. 8. *I have brought several Persons of Credit and Undoubted Characters, who have all testified, That the Hand—is not mine, nor any thing like it.* The State of his Evidence was this. In the House of Commons He call'd Dennis Kelly and John Macnamara. The First denied the Letter of the 20th of Aug. to be Mr. Kelly's Hand-writing; and so He did All other Papers that were shew'd Him, except the Letters to Lord Townshend and Mr. Delafaye, which the Prisoner Himself was very willing should be own'd. The Second, not being so well prepar'd, denied Them All to be his Hand-writing, as well Those which were dangerous to Mr. Kelly to own, as Those which Mr. Kelly Himself was desirous should be acknowledg'd as His own Hand-writing. But, (what was very remarkable) Mrs. Barnes, call'd by Himself for another Purpose, and having All the Letters shewn to Her, own'd Them ALL to be his Hand-writing. When he was to produce his Evidence for the same End, before the House of Lords, instead of calling Macnamara, who had made so hurtful a Blunder as to disown All the Papers in a Lump, He added to Dennis Kelly, one Maurice Brown. And their Evidence at the Bar of that House stood thus. The Former own'd, (as

before,) the Letters to Lord T. and Mr. D. to be his Hand-writing: Denied that of Aug. 20. to be at all like his Hand; and own'd a Paper (taken at Mrs. Barnes's) containing Articles of Marriage between Mr. Kelly and Her to be somewhat like his Hand; but so little, that He should judge it not to be his Hand. But who cannot see that a Paper upon that Subject, taken at that Place, and like Mr. Kelly's Hand, could be No One's Hand but his own? And who cannot see, that this Expert Witness could have no Reason for denying This Paper to be His Hand, but because it was so manifestly the same with that Letter of Aug. 20. upon which the Prisoner's Fate was to depend? Maurice Brown, when He came to give his Evidence, was very different from the other. For He own'd That to Lord Townshend, and denied That to Mr. Delafaye, tho' both manifestly the same Hand; and Both acknowledg'd to be His own, by the Prisoner himself. He acknowledg'd the Marriage-Articles to be Mr. Kelly's Hand: But denied the Letter of Aug. 20. to be at all like it; tho' so evidently the very same Character with those Articles, that Dennis Kelly knew better than to own the Paper of Articles, because He foresaw That this would be in effect to own the Letter of Aug. 20. With this Variety and Uncertainty did his own Evidences treat this Affair; agreeing in nothing, but in a determin'd Affirmation that the Letter of Aug. 20. which They knew to be a Criminal Letter, was not his Hand-writing; but confounding it again by their opposite Testimonies as to other Papers. And when They were ask'd, in what Mr. K's Hand-writing differ'd from that Original of Aug. 20. They could name no Particular, but that He generally wrote a smaller Hand. But this makes no material Difference, as to the Form and Dust of the Letters in any Hand-writing. Nor did it in this: as appear'd plainly to Many, who examin'd the Letters to which Mr. K. here appeals, as to his own Writing; and were convinc'd by the Hand-writing, tho' of a smaller Size, that the same Person who wrote These, certainly wrote That of Aug. 20.

Mr. Kelly's pretended Attempt to prove that He did not write These Three Letters from the Bishop of Rochester's Mouth, or at Bromley, where the Bishop was at the Time of their Date, was nothing but an Attempt to forestall the Trial of that Prelate: and was set aside by his Judges, as what was no Part of the Charge against Mr. Kelly, nor of any Concern to Him to enter into: because, if He could have demonstrated This never so plainly, it could not at all have clear'd Himself, or prov'd that these Three Letters were not his Hand-writing, written by Him for some Other Person, at some other Place. Only One thing must not be forgot, That in this Attempt of his Zeal to serve his Great Friend, Mr. K. has shewn a shameless Disregard to Truth, in affirming p. 8. that it was proved, that He was in London ALL that Time, viz. from Apr. 12. to May 5. as it is express'd in the foregoing Paragraph. For what Mrs. Kilburne and her Ser-

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vant deposed, was, that Mr. K. came to lodge at her House, the latter End of April; that They did not remember He lay abroad any Night; but that He generally dined abroad. And how this Testimony about the latter End of April, comprehended All the Time from the Twelfth Day; or how their saying, He did not lie abroad any Night after He came thither, at all proved that He might not have been at Bromley, and back again, any one of those Days in April, in which he lodg'd there; I leave to Mr. K's Logick to make out; and to his Conscience to justify such an Affirmation, even against the Evidence to which He appeals. Nay, what is more convincing against Mr. Kelly, He Himself own'd to the Committee of the House of Commons, that He went out of Town the Thursday Sev'night after his Return from France, i. e. the 19th of April. He said it was to Chelsea; and for this He appeal'd to One there, who being examin'd, denied that she ever knew or saw Him. So forgetful and self-contradictory is Guilt, in its own Nature, as to make even Men of Parts confound their own Cause by their own Evidence! And who, but One in the Confusion of Guilt, could affirm to the World that He had been proved to be ALL that Time in London, in one Part of which He had Himself declar'd that He was out of London?

After this, in p. 8. Mr. Kelly urges an Affidavit from Mr. Gordon, affirming that He never receiv'd any such Letters (as the Three now in Question) from Mr. K. nor ever had any Correspondence, or even Acquaintance, with Him. But He wisely hides from the Reader, That no Manner of Proof was brought that This was the Affidavit of that Mr. Gordon, to whom these Letters were supposed to be sent; that there was not so much as a Witness to his Hand, which might easily have been procured amongst the Merchants at Boulogne, if it had not been a Forgery: And what puts all beyond doubt, He conceals from the World, That a Living Witness appear'd, and testified upon Oath, That being at Boulogne at the Time when the Report of the H. of Commons came first thither, Alexander Gordon the Son, upon Occasion of that Report, own'd to Him that Mr. Johnson (Kelly) had been at Boulogne, and sent for Him [Gordon] to a Tavern; that Talbot had likewise been there, and at his House; that He did receive a Letter from Mr. Johnson [Kelly] with a Packet enclos'd, as mention'd in the printed Report, and deliver'd it to the Gentleman as He was directed. There was indeed Evidence given by a Shoemaker, (as Mr. K. says,) that Mr. Talbot was in London the Day these Letters are supposed to be deliver'd to Mr. Talbot at Boulogne: But not, that This was the same Person with Him to whom the Letters were to be deliver'd. On the contrary, there was Evidence read from Mr. Crawford and his Secretary at Paris, that They found the Name of One Talbot enter'd in the Man's Books who keeps the Bagnio at Paris, as coming thither to lodge on Apr. 30. that is, May 11. N. S. which agrees

exactly with the Letters from Dillon and his Secretary to Mr. Kelly; and with Gordon's own Letter, in which He says, that the Tall Black Gentleman set out for Paris, Apr. 27. O. S. which by Mistake is printed Apr. 30. in the Report. And as to Mr. Kelly's Argument from the Improbability that He should send such Letters by the Common Post; or not rather to Paris directly, than by Way of Boulogne; it may be accounted for from hence, that these Letters were to serve as Credentials to introduce Mr. Talbot into Confidence at Paris; and that Mr. Talbot was then at Boulogne, and might receive Them there from the Hands of Faithful Friends; and likewise, that being directed to Boulogne, and not to Paris, They might be thought less liable to Suspicion at the Post-Office.

This is the Whole of what relates to the Charge of the Three Treasonable Letters written, and sent abroad by Mr. Kelly. The Nature of my Design makes it necessary to be thus particular: And I had rather appear tedious to Some, than have it said by Others, that any Material Points were designedly overlook'd, because They could not be answer'd. And I hope, No honest Reader, tho' He should be a little tired Himself, will grudge Me the Satisfaction (accompanied with a good deal of Pains) of tracing the Conspirators thro' Every Winding, and Turning of their Art; and of shewing their Manner of Defence to be in Every Part of it as Infamous, as their Conspiracy it self was Wicked and Detestable.

BRITANNICUS.

P A P E R V.

I come now to another Article, which made a Part of the Direct Charge against Mr. Kelly, and was expressly urged against Him, as a Ground of passing the Bill; and was taken, as He expresses it, p. 10. from A Number of Intercepted Letters supposed to be [written to, and] receiv'd from the late Earl of Mar, General Dillon, and other Disaffected Persons abroad. In Support of this Charge, Evidence was produced to prove that Mr. Kelly did take up, and order to be taken up for Him, treasonable Letters from aboard, with such Directions as He Himself had appointed, and under such Names as were found in a List taken in his Custody. Mr. Kelly begins his Answer to This, with objecting against One of the principal Evidence, in the following Manner; such a Manner, indeed, as is enough to ruin his whole Attempt to defend Himself.—“For Proof of this, (says He) a Frenchman has been produced, who swears that He once saw Me take up a Letter at Burton's Coffee-house, by the Name of Baker, which Name it is said some of the Treasonable Letters were address'd by, and was in a Paper of Directions found in my Lodgings. And He adds—How that Paper came there, has been already prov'd.” This is his first Refuge. The Name of Baker was indeed a Name by which treasonable Letters were order'd to come. This Name was found in a Paper of

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Directions. But He argues, This Paper was found in his Lodgings, and had been wickedly put there, for that very Purpose, by *Neynoe*; for this was what He had before pretended to urge. I must not tediously repeat what I have already said: but I am forced to refer the Reader to the Truth of the Matter of *Fact* mention'd some time ago, and proved beyond all Contradiction; viz. that This Paper of *Directions* was taken, NOT in his Lodgings, or in his Drawer, as He goes on *falsly* to represent it: but in his POCKET; and taken there many Weeks before *Neynoe* was heard of by Any of the Ministers. So that This is not a Mere *Evasion*; but an *Evasion* accompany'd with *Wilful Falshood*, and *Deliberate Misrepresentation*.

His next Argument is against the Credibility of the Person. "And as to the Person who has sworn to this Particular, I must observe, that when He gave his Evidence to the House of Commons, He did not know Me, tho' He spoke to Me, and look'd several times earnestly at Me——And He would still have probably continued in his Ignorance, if some private Hints (as I have been told) were not given Him."—This sounds like something; but when all the Circumstances of this Person's Evidence are known, it will appear no great Sign, either of Mr. Kelly's Understanding or Probity, to have mention'd it. When this Objection was urg'd to the Man Himself, at the Bar of the House of Lords, He protested, upon his Oath, that the Reason of his not answering immediately in the H. of Commons, was because when He first came in, Mr. K. stood in such a Posture, that He could not see his Face plainly; that He look'd round about Him, in order to be certain of the Man, before he gave his Testimony; and that as soon as ever his Eyes had a plain Sight of Mr. Kelly, He challeng'd Him immediately and positively. The Manner itself of doing this, shew'd his whole Behaviour to be natural: and this very Circumstance of his not giving his Evidence till He was sure He saw the Person whom He knew to be Mr. Kelly, is so far from being to the Disadvantage, that it is itself very much to the Advantage, of his Testimony. Every One will be confirm'd in this Opinion, who knows that Mr. Collet had seen Mr. Kelly very frequently, and must have known his Person, as well as He could know any One; and therefore, that the Force of This Evidence does not depend merely upon Mr. Collet's Behaviour at the Bar of either House; but upon many Circumstances, which shew that He could not (morally speaking) be mistaken in his Man, whenever He should have a plain Sight of Him. He swore, that He waited at *Burton's Coffeehouse*, not accidentally, but sent on purpose, to watch and take notice, Who should come thither, and take up a Letter directed for Mr. Baker; that it was his Business and Intent to take particular Notice of this Person, whoever He should be: That there was at the Coffeehouse a Letter so directed; that a well-looking Gentleman came and took that Letter; that He view'd Him very

carefully; that He saw Him open the Letter, and read it, and put it up in his Pocket; that He then follow'd Him at a Distance, and watch'd Him, till He went into Mrs. Barnes's House in *Pallmall*, and from thence, (if I remember,) to his own Lodgings: That He after this saw and remark'd Him several times in the Street; and being sure of the Person, and of his Lodging, gave this Account to his Master who employ'd Him; and He to the Secretary of State. Mr. Salt, whose Servant Collet was, declar'd upon Oath, that Collet shew'd Him Mr. Kelly in the Streets, no less than five or six times, as the Person who took up that Letter, directed for Baker, at *Burton's Coffeehouse*. It appear'd likewise, upon Oath, that Collet was the Person, who shew'd Him to the Messengers when He was taken up; as that same Man, whom He was employ'd to view and watch at that Coffeehouse. And after all this repeated Proof of his knowing Mr. Kelly perfectly well, is it not exceedingly trifling for that Gentleman to frame an Argument from a Circumstance of Collet's not answering before He saw Him plainly in the House of Commons; when here is a Concurrence of Proofs that This could not arise from his not knowing Him, but from his Confusion; and his Resolution not to speak, till He saw the Person plainly, whom He so well knew?

Mr. Kelly goes on thus, p. 10. "Besides, the People of the Coffee-house have testified the contrary; and that no such Letter ever came to their House." This again is inexcusable. For those of *Burton's Coffeehouse* testified no such thing: nor could their Testimony be of any Force, if They had. All they could say was, That They did not remember the particular Letter in question: not, that They were sure, that there was no such; which it was not possible for Them to be. And no great wonder, (even supposing Them to be sincere, which is not certain) that They, who take in such a Number of Letters, with a vast Variety of Names, should not recollect one particular Letter, so taken in by Them. Neither is This any sort of Contradiction, much less a sufficient Counterbalance to the Positive Oath of a Person who saw it, and was employ'd to take particular Notice of it.

Mr. Kelly then soars higher, and arraigns the Council of falsifying his Examination, (printed in the Report E. 1.) in which it is said, that He confess'd to have taken up such a Letter. He appeals to my Lord Chancellor, whether He did not often deny it at that Time; and, as if this were not Indignity enough, He adds, that This is not the only Particular that is falsly set down in that Examination. Whether the Committee of Council, or Mr. Kelly, be the more to be depended on, must be left to the Judgment of the World: taking into the Account that my Lord Chancellor, upon his Appeal to Him, immediately stood up and declared, He remember'd no such Denial, on the Part of Mr. Kelly. But, to shew how carelessly, or rather designedly false, this Gentleman could permit Himself to be; He has here greatly abused

abused the World. For He has attacked his printed Examination, and fix'd the Charge of Falsification upon it; under the Notion of its being his Examination before the Committee of Council. Whereas, his Examinations before that Committee was not taken in Writing. And the Examination printed, is a former Examination of Him before the Two Secretaries of State and the Chancellor of the Exchequer, in which He was not so well prepared to deny some Circumstances, of which at that Time He had not so well considered the Consequences. And at this Examination, which is the printed One, my Lord Chancellor was not present. Such a Careless Unaccuracy would little become Him. But this seems to be something much worse; and indeed, no less than One of the grossest Prevarications imaginable, in a Point which touches the Honour of some of the Highest Persons in the Kingdom. For under the Cover of a confused Way of speaking, and with the Hope that his Readers will not see through it, He charges the particular printed Examination with gross Falsification, expressly as his Examination before the Committee of Council, at which my Lord Chancellor was present: Whereas, that printed Examination being Another and a Former Examination, He has this Evasion in reserve for this shameless Charge, That what He says of Falsification may be true, supposing the printed Examination be taken for That before the Council; and that He does not here once charge it with being falsified, supposing it to be his Former Examination; as He could not but know it to be. Here is another Scene of Low Prevarication, beneath a Man of Common Sense, or Common Sincerity; to appear to the World to talk of One thing, when He knows within Himself, He is truly talking of Another.

But the finishing Stroke is yet behind; —
 “ And I do SOLEMNLY affirm to your Lordships, That I never did receive any such Letter, (as that directed to Baker at Burton's Coffee-house,) nor ever SAW that Paper of Directions, till it was printed in the Report.” What can the greatest Charity think of such a Behaviour? For thus stand these Two Points. A Person swears positively, He saw Mr. Kelly take up that Letter. He watch'd Him, He follow'd Him, He frequently had sight of him. He shew'd the same Mr. K. several times afterwards to another Person; and to the Messengers, who took Him up. Mr. Kelly, in Opposition to This, wipes his Lips, and solemnly affirms That He never receiv'd any such Letter: and, if I may guess from other Instances of Deceit, He thinks He has Refuge enough from the Guilt of a solemn Lie, in the low Artifice of making a Difference within Himself, between RECEIVING a Letter from the Post; and CALLING for it at the House where it was receiv'd. Again, A Paper of Directions, agreeing with the Direction of that Letter and of Others, is sworn by Two Persons to have been taken in his Pocket. He, good Man, never Once regards this Circumstance of its being taken in his Pocket; but, after

having several Times with wilful Falshood talk'd of it as designedly put, and taken, somewhere else, He adds his solemn Asseveration, That He never saw this Paper, till it was printed in the Report. — Let Him, after this, be as solemn as He pleases, and deny what He pleases, — It will all have equal Weight with Me, from One who has here publicly recorded against Himself a solemn Asseveration, which carries Impiety along with its Incredibility.

Mr. Kelly goes on to observe, that there is One pretty remarkable Circumstance of this Correspondence, (laid to his Charge) That, as it began with Neynoe's Information, it ended with his being taken up. For immediately after, a new Correspondence is pretended to be discover'd, and — it has been suggested (says Mr. K.) that I sent Cyphers by Sir H. G. to France, and had Letters directed by them to Sturges's and Slaughter's Coffeehouses. This Circumstance is unluckily founded upon the Old Wilful Mistake, That this Correspondence began with an Information, which Information was given about Three Months after the Beginning of the Correspondence. In Answer to this Part of the Charge, about Letters directed to those Coffeehouses, He says, The People of those Coffeehouses have all sworn that I never order'd any Letters of that kind to be taken in, or received One, either by my own or any other Name, from Them. And the same He says of Other Coffeehouses, in p. 11. Which may be thus far true, that after He had found the Watch set for Him at Burton's Coffeehouse, He did not think it safe to go on in that Way of taking up Letters Himself; but He got One Mr. Andrews, and Others, to take Them up for Him. Of this Mr. Kelly takes not the least Notice; but very dextrously and wisely passes it over in Silence, because the Evidence was too strong to be play'd with. Mr. Andrews came to the Bar, and testified upon Oath, that Mr. Kelly desired Him to call for Letters directed to Mr. Andrews, to be left at the Dog and Duck in St. James's-Street; and to bring them to Him: which agrees exactly with some of the Intercepted Letters, ordering the Direction to be in that very manner. Accordingly, He swore that Letters did come, which He call'd for, and paid Postage for, as for foreign Letters; and which He gave unopened to Mr. Kelly, and for which Mr. Kelly always paid Him: That Two of these Letters had been delay'd a good while by a Mistake of the Street upon the Superscription; but that They were brought at last to this same Ale-house, and there received by Mr. Andrews, and from Him by Mr. Kelly. All this and more is silently pass'd over, as if nothing had been said of it: and, instead of answering to such positive Evidence of a Man, whom He did order to receive for Him such Letters, according to his new Directions; He flies off to other Points of Fact, in which He was not so weak: but which are nothing to the Purpose. Nay, (says He, speaking of the People of the Two Coffeehouses named,) One of Them has sworn that no such Letters ever came to his House at all; and the Other says

says, That a Messenger from the Secretary's Office was the only Person that ever call'd at his House for Those directed to it. These Two things are true, but don't at all help his Defence, or shew his Innocence. No such Letters did come to One of those Houses; but Letters did come to the Post-Office, directed to that House. They were stop't at the Office, and not suffer'd to go on, because They contain'd the Pretender's Declarations. And a Messenger was sent to the Other House, for Letters directed to it; because Mr. Kelly was then in the Tower; and amongst the Directions found in his Pocket-Book, was One to that Coffee-house: which gives a very good Account of the Secretary's sending thither by Authority for what Letters could be met with. What follows about Mr. Caryl's Deposition, had no relation to Mr. Kelly's Case, as it stood before the Parliament; being never urged against Him. However, it is evident that Mr. Caryl was not a Willing, but a very Unwilling Witness; and spoke what He did merely from the Sense of his having taken an Oath to speak Truth, and nothing but Truth. Neither could Mr. Kelly imagine Mr. Caryl to be in a Confederacy against Him.

I am now come to Mr. Kelly's concluding Argument, in Answer to the Charge which was brought against Him, in relation to the receiving those Letters from abroad, viz. That what has been urged by the People belonging to these Coffeehouses, (which is nothing) must be sufficient to shew Him not concern'd in this Correspondence, especially since no Letters of this kind were found in his Possession, nor any other Papers relating to the Conspiracy, p. 11. and the same p. 10. about Cyphers, &c. Here again He wilfully conceals the positive Proofs that such Letters did come, and were given into his Hands, and receiv'd and paid for by Him: And thinks it a great Point, to alledge that no such Letters, or any Papers relating to the Conspiracy, were found in his Possession. The Reader needs only to call to mind, that it had been Madness in Mr. Kelly, upon the least Suspicion of Danger, to have kept in his Possession such Letters unnecessarily; that there was Proof of burning of a Trunk of Papers at his Lodging, by his Friend Bingley, when He was taken up; that He Himself hazarded his Life, to burn Papers which were found upon Him by the Messengers that apprehended Him; and He will not wonder that what was burnt, was not seiz'd: but He will conclude that Many Papers relating to this Conspiracy must have been taken in his Custody, if They had not been thus disposed of by what Neynoe call'd a General Conflagration. And, if after this, the Reader remembers that still there was One Paper left, — a Paper relating to this very Correspondence, — a Paper relating to the Conspiracy; — I mean the Paper of Directions of Letters; and that this Paper was taken in his Pocket, upon Himself; He will then wonder at the Falshood of this Affirmation here, unless the frequent Falshoods throughout the whole Speech have taught Him to wonder at nothing. But what need

Mr. Kelly, of all Men, trouble Himself to urge such an Argument as this? For, supposing there had been Papers of the blackest sort found upon Him; what would this have imported against a Man of so much Dexterity and Piety? He could as easily have answer'd in this Case, as He has done in Others, that They were all forged — not taken in his Pocket, but in his Drawer — and first put there by Neynoe, or somebody like Him, employ'd for that Purpose? And He could as easily here likewise have call'd in the Help of Religion, and have solemnly affirm'd upon the Faith of a Christian, that He had never seen them before. And there had been an End of all his Difficulties. For what Evidence can stand against such Asseverations, utter'd with such a Form of Godliness? Guilt it self, after this, has but little to fear, when such a Method of Defence is so ready at hand; pointed out to it by the Authority of such Precedents, and now sanctify'd by the Example of the pious Mr. Kelly, and the greater one of his pious Master.

BRITANNICUS

P A P E R VI.

AFTER what I have already observed in support of the Real Charge against Mr. Kelly, in opposition to his weak and dishonest Replies to it, I have still a Mind to shew the Reader that in the Other Parts of his Defence, in which He wander'd from that Real Charge as urged against Him, at his Trial; and chose out such Imputations upon Himself as lay scatter'd in the Printed Reports of Both Houses, and such as He thought He could attack with the greatest Success; that even in These, He has hardly stirr'd one Step, and hardly spoke one Sentence, which does not help to prove the same determin'd Disregard to Truth, Justice and Honour. The Particulars I will mention, as They lie in his own Speech: and just direct and point out the Falshood and Prevarication made use of, in them, in the fewest Words possible. And this the rather, because I have long ago mention'd his insisting upon these Particulars, as One of the Artifices of that Guilt, which is ever willing to draw Mens Eyes from what was truly and chiefly urged, to what was either not at all, or but very lightly, touch'd upon, thro' the Whole Accusation.

P. 4. Against the Credibility of his “employing Neynoe to draw up Memorials to the Regent of France to solicit Foreign Forces, &c.” He urges, That the Examinations of Neynoe himself, which are the only Evidence alledg'd in the Report, are neither upon Oath, nor so much as sign'd by Himself. But tho' these Examinations are not signed with his Name, yet One of Them (E. 7.) was all in his own Hand-writing, of which full Proof still remains; which is more than equivalent to the mere signing a Name: and the Substance of All that affects Mr. Kelly, reduced into One, (E. 10.) was read over to Neynoe twice, Paragraph by Paragraph, and acknowledged

knowledg'd by Him to be true before Six Lords of the Council, as was beyond all doubt attested in the House of Lords. Nor are Examinations usually upon Oath, where the Matter of Them affects the Life of the Person examin'd, unless He voluntarily offers it. And this Oath Neynoe had promised to take, as soon as He should have Time to make his Confessions compleat, as He engaged to do. *Ib.* Mr. Kelly argues, that Neynoe could not be employ'd to draw up Memorials, because He had deliver'd no Copies of them to the Ministers nor kept any; as probably He would have done, had this been true: and particularly of the last in Dec. 1721. when He might be presumed to have Thoughts of turning Informer. But I say, much more probably, He would not keep Copies of Any thing of such a dangerous Nature; nor be allow'd to do so, by Those who employ'd Him, if They could prevent it: Especially considering that He could have no Thought (contrary to Mr. Kelly's affected old Mistake) of turning Informer, even when He drew up the last in Dec. 1721. which was at least full seven Months before He wrote his first Letter to Mr. Walpole. And that there were such Memorials drawn up, in order to the same End, appear'd by authentick Accounts from France; which add a corroborating Testimony to Neynoe's Evidence.

Ib. But Mr. K. urges that "N. contradicts Himself in his Examinations, upon this Subject: particularly, in the Second He says, These Memorials were drawn up by the Order of one Henry Watson, supposed by Him to be the late Earl Marishall; in the Third, That They were deliver'd to Mr. K. and Watson together, [and the Heads given by Them, which is here omitted:] in his Fourth, That They were all drawn up by Order of Watson ONLY; and in a few Lines afterwards, That the Heads were given Him by Mr. K. and Watson." Poor Instances of Self-Contradiction! As if Papers might not very consistently be said to be drawn up by the Original Order of One Man ONLY, as the superior Person; and yet the Heads given by that Man, and Another engaged in the same Cause. But it is remarkable, that Mr. K. in order to make his Weak Objection look the better, has Himself, in citing Neynoe's Examinations, foisted in the Word ONLY; and this a Word which He lays such a Stress upon, that He has printed it in Capital Letters, as part of N's Fourth Paper: Whereas, whoever looks into that Fourth Paper, will see that the Word ONLY is not in it; but that Mr. K. was forced to coin it for his own Purpose, and for a little Shew of an Argument. With the same View, He leaves out of his Account of Neynoe's Third Examination, his positive Assertion that the Heads were given Him by Mr. K. jointly with Watson, in order to make the same Point (only repeated) in his Fourth Paper, look like a New Invention. These are not the Arts of Innocence!

P. 5. Mr. Kelly speaks of the Improbability of the Earl Marishall's living openly in England,

and trusting Neynoe: when Neynoe's own Account of the Matter is positive, that He did not live openly, but clandestinely, and under a feigned Name; nor trust Neynoe, so as to own at all to Him, who He was; or in any thing, but what Mr. Kelly was very ready (as far as has yet appear'd) to trust Him too. *Ib.* Mr. K. pretends to prove that "He could not be so concern'd in any Memorials, because (as it appears by his Pocket-Book) He went to France, Nov. 23, 1721. and did not return till the latter End of the next Month: That N. owns, He did not see Him after his Return till the Jan. following; which makes it impossible for N. to be so employed by Mr. K. in December, the Month in which N. pretends to have drawn up these Memorials." Here again is gross Falsification, not to be accounted for by any Necessity for it, but what arose from Mere Guilt. It appear'd by Mr. Kelly's Pocket-Book, that He return'd to England fifteen Days after the Wedn. next following the 23d of Nov. i. e. the 13th, or at farthest the 14th of Dec. By what Rule of Speech this can possibly be call'd the latter End of Dec. I leave to Him to shew, if He would clear Himself from the Charge of direct Falshood. So that it appears, He was in England at the Time when N. fixes the Writing of the last Memorial. Another Instance of the same Falshood, is his Assertion, that N. owns He did not see Him till the Jan. following. Whereas Neynoe, recollecting by Memory the Matter, which was past Nine or Ten Months, uses the Words about Jan. last, in E. 7. In all reasonable Construction, He is never accounted inconsistent, who, in an Affair of so long standing, names a Time perhaps a Fortnight after the Thing was done; in the same Sentence using the cautious Expression of about that Time, which surely may take in a Fortnight before it, or after it; especially in the Opinion of a Gentleman, who, in strict Pleading, and knowing the precise Time of a Matter of Fact, can call the 13th of Dec. the latter End of that Month.

Ib. He comes to the Letter fixt by Neynoe upon Mr. K. as well as Himself, as written with a Design to amuse the Government into a False Security. This Accusation Mr. K. declares impossible to be true, because (as He says Himself) He was in France all the Month of March, in which that Letter was placed by Neynoe; and therefore, could not employ N. in any such Letter, at that Time. This sounds very plausibly; especially since it is certain, Mr. K. was in France, as He here represents. But it all amounts to more than this, that N. made a Mistake of the Date of the Letter inclosing, for the Date of that which was inclosed. The Letter thus said to be writ jointly by Mr. K. and N. [viz. That printed in the Appendix of the Lords Report] is dated Feb. 12, 1721-2. at which Time Mr. Kelly was by his own Confession in England, and therefore capable of joining in it. But the Letter to the Secretary of State, in which

That was inclosed, is dated *Mar. 31.* which was a *Saturday*, as *N.* makes it; and the *Date* of this last *N.* mistook for the *Date* of the first. That the *Letter* dated *Feb. 12.* is the *Letter* referred to by *Neynoe*, is put beyond all doubt by the *Testimony* of *Mr. Walpole*, upon *Oath*, that *N.* in *Conversation* gave Him a particular Account of the *Contents* of that *Letter*, under the *Notion* of a *Letter* writ for that *View* of giving the *Government* a *False Security*; without having the least *Hint* given Him of any such *Letter* in the *Hands* of the *Ministers*. How it came to their *Hands*, was something extraordinary. For, it was directed and sent to the *Post-house*, in such a manner, as might most probably create *Suspicion*, in order to be there intercepted. But it happen'd not to be intercepted: upon which, it was afterwards sent by a private *Messenger*, to One of the *Secretaries* of *State*, inclosed in another *Letter*. And to clear the *Matter* farther, *Mr. Kelly* has, in his own *Defence* upon this *Head*, furnish'd an *Argument* not to be retracted, or answer'd by Himself. "Had this *Examination* [viz. of *Neynoe*] been taken at any *Distance* of *Time*, it is possible He might be mistaken in it; [i. e. might have mistaken *Mar. 31.* for *Feb. 12.*] but his *First Information* must have been about the *Middle* of *April*—And surely, He cannot be supposed to have forgot so soon what happen'd the very *Month* before—&c. For this *Examination* was taken at a considerable *Distance* of *Time*; it having been proved over and over again that *N.* was not heard of by *Mr. Walpole* till *July* the 28th: And his *Examination* was not taken till He was brought back from *Deal*, about the *Middle* of *September*; which is *seven Months* after the *Letter* in debate was writ, and almost *six Months* after the *Letter* which inclosed it was writ. And therefore, by *Mr. Kelly's* own *Confession*, *Neynoe* might very easily make so slight a *Mistake*, as that of remembering the *Date* of the *Last* for the *Date* of the *First*, which was inclosed in it; and this without invalidating his *Evidence* at all.

Ib. That *N.* declared that *Mr. K.* was a *Month* out of *Town*. [i. e. from the latter End of *Nov.* to *Dec.* following] without his knowing any thing of it, must be added to the Number of his *False Assertions*: because *N.* (in *E. 7.*) does expressly mention *Mr. Kelly's* returning from *France* about that *Time*: which shews He knew of his having been absent. Of the same sort is the *Affirmation*, [*ib.*] that it had been fully proved that *Neynoe's* *Visits* at *Mr. Kelly's* *Lodgings* were *NEVER* to Him, but *ALWAYS* to Another *Person*. For *Malone* deposed, that whilst He lived with *Mr. Kelly*, *Neynoe* had often call'd and ask'd for Him, (and not for the Other *Person*) under the Name of *Johnson*; and by *Mr. K's* own *Evidence* it appear'd, that there was such an *Intimacy* between them, that when *Mr. K.* was not at home, *Neynoe* was without *Scruple* let into his *Room*, to stay till He came in. *Ib.* His *Solemn Affirmation* about not knowing any *Person* who went by the Name of *Wat-*

son, can be of no more *Value*, than *That* as *solemn* One, upon Another *Subject*, which I have lately shewn to be absolutely incredible.

P. 6. *Mr. Kelly* comes to the *Charge* against Him for acting under the late *Bishop* of *Rocheſter*, in the *Conspiracy*, as it lies in the *Report*; tho' it was not at all urged against Him at his *Trial*. His first *Defence* is taken from the gross and notorious *Falshoods* He has shewn *Neynoe* guilty of, under the former *Article*: which therefore make his *Testimony* of no *Value*, in this *Point*, viz. that *Mr. Kelly* had often told Him He used to write treasonable *Letters* for that *Prelate*. But this *Defence* must be useless to *Mr. K.* because I have not only shewn that there is nothing of that *Falshood* in *N's* *Evidence* upon the former *Article*; but that the *Charge* of notorious *Falshood*, in that very *Article*, lies upon *Mr. Kelly* too close to be wiped off. Nay, even here, whilst He is charging *N.* with *Falshood*, He utters One of the greatest, in affirming *Neynoe* to be the only *Evidence* of this *Charge*; unless He trifles egregiously with the Word *Evidence*. For leaving all *N's* *Examinations* out of the *Question*, the Names of *Illington* and *Jones*, the *Circumstance* of the *Dog*, and *Mrs. Barnes's* positive *Evidence* about it, and the *Proof* of *Mr. Kelly's* writing the *Three Letters* sign'd *Jones*, &c. are unanswerable *Arguments* against Him. But it ought to be remember'd, that *Neynoe* not only affirm'd This from *Mr. Kelly's* Mouth; but gave *Mr. Walpole* sufficient *Proof* of it, by acquainting Him (as He, upon *Oath*, gave *Evidence*) with the very *ſictitious* Names by which the *Bishop* went in that *Correspondence*; and by giving Him a particular Account of the several *Sorts* of *Cyphers* by which it was managed: the *Former* of which the *Ministers* at that *Time* knew to be true, tho' *Neynoe* had not the least *Hint* that They knew it; and the *Latter* They then had found in part, and afterwards found in the whole, to be exactly true. These, and many other concurring *Circumstances*, are far from *Proofs* of mere *Invention*.

Ib. *Mr. Kelly's* next *Defence* (not of Himself indeed, so much as of his *Reverend Master*) consists of *solemn Declarations*, upon the *Faith* of a *Christian*, of the very slender *Acquaintance* between Them; and of his having never once either wrote or received a *Letter* for the late *B.* of *R.* and the like. I must repeat, that in a former *Paper* I have shewn how free of *Solemn Affirmations* this *Gentleman* can be, against the most positive *Evidence*. But I will now take Notice of two *Particulars* in this very *solemn Declaration*, in this *Place*: and if the *Reader* can believe These Two; I give Him leave to believe all or any of the rest. The One is, That He never went privately in a *Chair* to that *Prelate's* *House*; the direct contrary to which was sworn at the *Bishop's* *Trial*, by Two *Chairmen*; both of which were positive to the carrying *Mr. K.* thither, and One of Them said, at least two or three *Times*. And indeed, the *Acquaintance* and *Correspondence* was sufficiently proved.

The

The Other Particular is this, *ib.* " And as for the Dog, which has been brought as a Circumstance to prove this Matter, I do, in the same solemn Manner, declare, HE was given Me by a Surgeon at Paris—and that He never was designed for any Body but the Person I gave him to." An inward Contempt of every thing sacred and solemn, must be the Foundation of Such Declarations as this. For it was sworn afterwards at the Bishop's Trial, by Mr. K's own Friend Mrs. Barnes, that when He gave her that Dog, which was the only One she ever had from Him, she was in hopes it was for *Herself*, (according to a Promise of his,) but that He told Her, This was not the Dog He design'd for Her; that this was for the Bishop of Rochester, and only to be kept by Her till the Leg should be well; but that, upon her Importunity, He told Her, (which had been hitherto a Secret) that a Surgeon at Paris had promised Him a Dog of the same sort, which was design'd for Her. These Circumstances were so very remarkable, that She could not forget, or be mistaken in them. And no One, who knows what had passed between Mr. K. and Her, could suspect Her to be inclined to hurt Him. So far from that, that when She was before the House of Commons, and Mr. Kelly's Fate alone was depending, and She was not upon her Oath, She endeavoured to palliate this Matter, and to appear as if she remembered no such Circumstances as Those She had before own'd to the Lords of the Council. But when She came before the House of Lords, and had taken an Oath to speak Truth, She *Herself* gave That as a Reason why She could not conceal or deny these Circumstances, viz. because She consider'd *Herself* under the solemn Obligation of an Oath. This was in the Bishop's Trial: which coming after Mr. Kelly's, and after She had in another Place appear'd inclined to hide the Truth as much as possible, must have been the sole Ground of Mr. Kelly's trusting so far to her Denial of these Circumstances again, as to venture to declare solemnly, upon the Faith of a Christian, a Notorious Falshood, which his *She-Friend*, in two or three Days, absolutely contradicted upon Oath.—Go now, and trust to some Mens sanctified Declarations.—What He adds about the Surgeon's Certificate of a Dog sent for Mrs. Barnes, is now accounted for, by the Discovery that there were Two Dogs; and the Meanest Prevarication discover'd at the same time, both in Mr. K. and the Prelate, who could stoop so low as to alledge a Certificate about One Dog, (of which the Surgeon who sent it says He never heard any thing after it was sent,) as relating to Another Dog, of whose Arrival and Mischance frequent Accounts are given in the Letters writ back to Those who sent it. *ib.* That the Bishop never saw the Dog, nor sent for Him, &c.—I can easily believe, when soon after He arrived, and before his Leg was cured, this Matter was known by Himself to be a Circumstance which pointed at Him. Nor do I wonder therefore

at what Mrs. Barnes attested, That whilst She was once out of Town, the Dog was made away with: which no One will believe would have come to pass, if this had been the very Dog, which Mr. Kelly impiously affirms, upon the Faith of a Christian, to have come from a Surgeon at Paris, and to have been originally design'd for Mrs. Barnes only. A Dog so innocent might have been permitted to live: but One that threaten'd Danger to a Great and Holy Man, must be put out of the Way, as other Evidences sometimes have been. But I cannot help to wish here, that for the Sake of Appearance, if not of Religion, They, who are resolved to make such solemn Declarations, would only stay, before They do it, till They know the whole Evidence which will be produced upon the Subject of such Declarations.

BRITANNICUS.

PAPER VII.

THE remaining Particulars of Mr. Kelly's Speech, here follow. P. 7. He wanders again from the strict Charge against Him, at his Trial, to that Deposition in the Report of the H. of Commons, in which Mr. Pancier swears that Another [Skeen] told Him of this Conspiracy, with the following Circumstances; That Six or Eight Battalions of Irish Forces were to come from Spain, to assist the Conspirators; That 200,000 l. were raised, and 800 Men regularly subsisted in London, for this Purpose. The Incredibility of these Particulars, is his Argument here against the Truth of the Deposition. But granting this to be in great measure a good Argument; it is indeed no more to Mr. Kelly's Innocence, than if He had quoted a Passage out of any Romance. It was the Wisdom of the Government, to publish what was brought before Them in the way of Discoveries, especially such as were given in upon Oath: but it was their Wisdom likewise to lay no Stress upon any thing, but what the Nature of it would bear. Mr. Pancier comes and swears that one Skeen, giving Him an Account of the Conspiracy, told Him These Particulars. And it is known to be a very common thing for Conspirators, who have a Mind to engage Others in their Designs, to magnify all their Real Strength, and to invent whatever They please, to encourage those Others, and possess Them with a great Opinion of future Success. But what is all this to Mr. K. whom this Deposition of Pancier's did not in the least affect? Does any thing Mr. K. has said prove, or pretend to prove, that Skeen did not tell P. these Particulars; which is the only Point deposed by Pancier? Or rather, (which is the only Point of Importance to Mr. K.) Will He be willing to appear so weak as to argue thus, One Skeen told One Pancier Things about the Conspiracy, that could not be true. Therefore, I am innocent.—Therefore, Points of quite another kind, laid to my Charge, upon Other Grounds, and by the Concurrence of Other Evidence, are all False likewise. Or thus, It is false, (what One

One Man says,) that 200,000 l. was raised for the Military Chest, &c. Therefore, It is false that I wrote and received treasonable Letters: which does not depend upon That Man's Testimony. Away with such Wandring and Impertinence of Argument.

Ib. But Mr. K. would not seem so distant from all Shew of Argument; and therefore, gives it in this Place as a Reason for taking Notice of this Deposition, That "These—are called, in the 38th p. of the Report of the Lower House, the Concurrent and Corroborating Proofs of his Accuser's [Neynoe's] Examination." By which He has only still more shewn either his Tendency to Blunder, or his Resolution to Misrepresent. For whoever will look into that Report, will see that those Words refer expressly to the Sequel of the Report; and not particularly to the Paragraph immediately following them, to which Mr. K. is pleased to make them refer, tho' that Paragraph has manifestly no relation to Neynoe's Examination. And as Mr. K. knows that this Discourse (whatever it was) between Skeen and Pausier, was not in the least urged, as even a corroborating Proof of his Guilt, He might have spared his Tragical Exclamation in this same Place, about the Danger to Life and Liberty from such Hear-say Evidence;—and from any Two Men talking a Third Person into High-Treason: and He might have spared his own Conscience the uneasy Reflection upon so Gross and Willful a Misrepresentation of his Judges and Superiors, as does in express Words lead the Reader to think that this very Evidence had been urged, even as a sufficient Evidence (for that is his Expression) against his Life or Liberty, whilst He was conscious it was not so much as mention'd, but by Himself; and that, because He thought He could abuse this supposed Evidence, much more easily than He could answer the Real.

But since We are speaking of what was not at all urged, as any Corroborating Proof of Neynoe's Examinations, there comes into my Mind a Matter not yet mention'd, which afterwards appear'd at the Bar; and which was indeed a Corroborating Proof of that Part of Neynoe's Examination, in which He declares that He Himself frequently left Mr. Kelly at the late B. of R's House; and waited for Him thereabouts, till He came out again. This was the Testimony of one Mr. Lloyd, that keeps the Star and Garter in Old-Palace-Yard, who voluntarily offer'd Himself; and gave Evidence upon Oath, that, being related to Neynoe, He frequently came to his House; and particularly last Summer, three times just after the Death of Lord Sunderland; (which is a Critical Time in one of the Treasonable Letters;) and stay'd at his House an Hour or more at a Time; giving it as a Reason of his calling there, and staying, that He had left a Friend at the Bishop's Door, who used often to go to that Prelate about Business of Consequence, and had free Access to Him at all Times; and adding, that He must go to the Cloysters to meet that Friend again, as soon as he should have

done his Business with the Bishop: Which is indeed a Corroborating Proof of the Truth of what Neynoe had said. To return,

In p. 11, He comes to Another Point, mention'd indeed at his Trial, but not charged expressly and positively upon Him; viz. "A Letter to Mr. Gordon at Boulogne, with Two Affidavits, suggested (says He) to be sent by my Directions, in order to have Him and Mr. Birmingham perjure Themselves upon my Account." This Letter with the Affidavits was brought to the Secretary of State by one Garth, to whom it was delivered (to be carried to France) by one Akenhead. And the Suspicion is very natural, that the Persons who were to profit by such Affidavits, did either Themselves send them; or that their Friends contriv'd to do it for Them. But, How does Mr. K. handle this? He does not deny that such Letter and Infamous Affidavits were going to France; and thus stop'd from going. But He first attempts to clear Himself, thus; "This Letter (says He) is dated the 20th of March; at which Time, and for five Months before, I was so constantly guarded, that I could not have given Orders for this End, without being discover'd." And yet, All this is overthrown by one unlucky Circumstance which He hides, viz. That tho' the Letter is dated March 20, yet it was not deliver'd to Garth to be carried abroad, till several Days after Mr. Kelly's Solicitor had Access to Him; and therefore, might, notwithstanding this Argument, be a Management of Mr. Kelly's; and the Date put backwards out of Art and Cunning. "Besides, He argues, A Person was dispatch'd to France, who brought an Affidavit in a different Form from These in question." As if a Person, to whom it was of the utmost Importance to be sure of an Affidavit in One Form or Other, might not send a Messenger for One in a Form less offensive; and at the same time, send for Another in a more gross Form, and in a Way, in which, if it should be discover'd, it could not be demonstratively fixt upon Himself. But, as We pass, a Question here arises, upon Mr. K's own Argument, very hard for Him to answer, viz. Since a Person was thus sent on purpose, Why did not this very Person appear, and attest that Mr. Gordon sign'd the Affidavit at Boulogne, in his Presence? And why was this material Point left destitute of all manner of Proof?

But to proceed, Mr. K. after having thus clear'd Himself, and then his Solicitor, by saying, That he can testify that no Draughts were sent by Him; (which, to be sure, Whoever sent such Draughts, would not scruple to depose;) still is not content: but with the Uneasiness of Guilt, and Shamelessness of Iniquity, has recourse to his Old Art of laying That, as a Forgery, upon his Superiors, which otherwise must lie too strongly upon Himself, or his own Friends. He speaks of the gross Management of the Persons concern'd in this Affair, as an Argument that This Forgery must be likewise added to Their Account: than which abominable Way of treating Every thing which touches Him, there is nothing

nothing more Impudent, nor more truly demonstrative of the *Guilt* of Him who makes use of it. If He had said, that He hoped He should not be made answerable for what some officious Ignorant Friend, unknown to Him, might have done, under a false and mistaken Hope of serving Him; there had been some Modesty and Sense in it. But, to throw it upon his *Accusers*, as *their* Wickedness; that is, to represent *Them* as *forging* a Thing, which He saw, at the same time, *They* Themselves treated only as a remarkable *Matter of Fact* that had happen'd in the Affair of *Gordon*, without positively charging Mr. K. with the Contrivance; What can One say? Such an Insinuation shews at once the *Malignity* of the *Heart*, and the *Weakness* of the *Head*.

He concludes this *Article*, according to Another of his *Inexcusable Customs*, with solemnly *Affirming*, That He never knew any thing of these *Affidavits*; that He never heard of the Name of *Akenhead* before; and (observe what He adds) nor can I find out any Person, besides the Master of the *Vessel*, that ever did. *Solemn Affirmations* are of no Force from those who have shewn their Disregard to *Truth*. But in these, He is peculiarly unfortunate. For the *Last* of the *Three* is, of it self, enough to convince all his *Readers*, either of the *Falseness* of the *Other Two*; or of the great Negligence and Ease with which He permits Himself to say what He pleases. For the *Woman* of the *House* where this *Akenhead* lodg'd, had been at the *Bar*, before this *Speech* was deliver'd; and upon *Oath* gave an Account how long He had lodg'd with Her: and declared that, upon the Discovery of this *Matter* of the *Affidavits*, and the first Noise about it, He ran away, tho' He had *Wines* and other *valuable Goods* in her *House*; and chose to lose the *Sale* of them, rather than stay. Let any *Reader* of *Common Sense* judge whether this Circumstance, and the Silence of Mr. Kelly upon it, make this Contrivance of the *Affidavits* look like the *Forgery* of his *Adversaries*, or the *Wicked Design* of Himself or his *Friends*: And, Let any One of *Common Honesty* determine, What is to be thought of a *Man*, who heard this Account given upon *Oath* at the *Bar*, and immediately could permit Himself to pronounce a *solemn Affirmation*, that He could "find out NO Person, besides the Master of the *Vessel*, who ever heard of such a *Man* as *Akenhead*."

The *Other Point* He mentions p. 12. is "a Crime set forth in one *Levet's* Deposition in the Report of the *House of Lords*—viz. That Mrs. Barnes told her, Mr. K. was instrumental in, or privy to, the shutting up a Person in a *Dungeon*, for fear of his turning *Informer*;" and the like. This *Deposition* was indeed printed, because it was so deposed by Mrs. *Levet*: And from the printing This, and the like *Depositions*, which were only Accounts of what had pass'd in Conversation between *Women*, and *Men*, just in the natural Manner in which they were made; I think it may be argued, that there was no *Art*

or *Trick* put in Practice, either to procure such *Evidence*, or to conceal what They said. No Use was made of This; nor was it so much as mention'd against Mr. Kelly; but officiously by Himself. And if He will chuse to fight with *Shadows*, instead of *Substance*, it will only still more shew, that He well knows on which part his own *Weakness* lies. All that Mrs. L. says is, that Mrs. B. told Her this Story. And Mr. K. I dare say, has not convinced any One Person that She did not tell Her so. He proposes, They should be confronted. Let it be so. Mrs. L. affirms: Mrs. B. denies. Which of the Two shall be believed? At the Time indeed, when this *Speech* was spoke, Mrs. B. was, in Mr. K's Opinion, a very *Credible* Person. But a Day or two afterwards, when upon *Oath*, She discover'd the Secret of the *Two Dogs*, One of which only was come; and when upon *Oath* she invalidated all her Friend's *Solemn Affirmations* about the Relation between the *Bishop* and the *Dog*; her *Credibility* from that Moment must have ceased with Mr. Kelly; and it must have become equal to Him, Which of the *Two Women* is believ'd: unless perhaps He had rather now, Mrs. L. should be believ'd; because if Mrs. B. be a *Credible* Person against Mrs. L. She must be equally a *Credible* Person against Mr. Kelly and his *Eminent Friend*; and do much more hurt to their Cause, by her Testimony, One Way, than She can do good Another.

By this Time it sufficiently appears, with how great and how shameless *Disingenuity* Mr. K. at the Opening of his *Defence*, charges the *Two* printed Reports, with *Inconsistencies*, *Contradictions*, *False Conclusions*, *Weakness*, *Absurdity* and *Sophistry*, in almost Every Page of them; and this, as an *Introduction* to the *Justice* and *Favour* of the *H. of Lords*, whose Reports They were Both in effect now become. For I have follow'd Him, tho' wandring out of his Way, to Every particular Passage of the Reports He has tried his Skill upon; and have shewn that, even in These, which He has chosen out as *Weakest*, He has not given Proof of One *Contradiction*, or One single *False Conclusion*; nor of the least *Absurdity*, as far as the *Intention* of putting them into those Reports, or the Use there made of them, extended themselves: but that on his own Part indeed, He has, all along as He pass'd, added a Heap of *Incidental Inconsistencies* and *Absurdities*, to the *Guilt* of his main Cause. I can think of nothing to equal the *Blustering Rudeness* of this Attack at the Entrance of his *Speech*, but the *Unblushing Assurance* of his Assertion at the End of it, That it was not pretended that He had transgress'd any Law yet in being: as if the Law against all *Treasonable Correspondence* with *Enemies* were not, in its own Nature, One of those *Laws*, which co-exist with *Humane Society*, and are always in being; and as if our particular Law about it did not sufficiently declare it a *Criminal Point* deserving Punishment, tho' an *Offender* may be so *Cunning* as to preclude the *Oral Testimony* particularly required in it; and as if his own Concession of the

Reasonableness of Proceeding by Bill in Extraordinary Cases, did not it self take from Him the Benefit of such a *Falſe Allegation* as this. But it was fit, that the *Good Manners* and *Good Sense* of the *Beginning*, ſhould be equal'd by the *Modesty* and *Truth* of the *Conclusion*.

I have now made an End of the *Remarks* which offer'd Themſelves upon Mr. Kelly's *Defence*, in which I have not omitted even the ſlighteſt *Trifles*; that the Whole may be ſeen in its full Strength. I enter not, at preſent, into any of his *Observations* upon the *Method of Proceeding*, upon this Occaſion, by *Bill in Parliament*. Every One, as well of Them who favour'd the *Persons* accuſed, as of Them who did not, allowed the *Reason* and *Justice* of it, upon proper Occaſions. All the Difference was, *Some* thought the preſent a neceſſary Occaſion, *Others* thought not. For my own part, I can ſee no Uſe of ſuch a *Power* at all in our Government; unleſs it be exerted, whenever a *Conſpiracy* appears undoubtedly to have been carrying on; and whenever the *Conſpirators* have uſed all their *Cautions* and *Cunning* to manage their Parts ſo, as not to have put it in the *Power* of any *Two Oral Witneſſes* to the ſame *Species* of *Treaſon*, to teſtify againſt Them. That there may be *Evidence* as ſufficient, and as convincing, even in *Capital Cases*, as the *Teſtimony* of *Two Witneſſes* to an *Overt-Act*, is paſt all doubt; and is proved from the *Practice* of the *Courts* below Themſelves, in the *Caſe* of *Trials* for *Murder*. That it is incomparably harder for any *Persons* in *Power*, (were they as *Wicked* as Mr. K. and his *Maſter* have for their own Ends painted Them out,) to invent and forge a vaſt Number of *Concurrent Circumſtances*, all conſpiring uniformly to prove the ſame *Facts*; than to *bribe* and *corrupt* *Two Witneſſes*; muſt be granted by *All* who will think over the Matter deliberately. That there is a *Multitude* of ſuch *Concurring Circumſtances* in the *Caſe* of Mr. Kelly, the Reader has ſeen. And as to the *main Art* of his *Defence*, It has been proved too plainly to be doubted of, That, whiſt He has attempted to throw the *Invention* of what was impoſſible to be invented upon his *Superiors*; He has run Himſelf into *Irreconcilable Abſurdities*; falſifying the *Evidence*. He thinks fit to produce; hiding from his Reader All that was *ſtrong*, and chiefly inſiſted upon; running out into *Matters* entirely foreign to what was truly alledged againſt Him; making the *Whole* a *Contrivance* between a *Great Man* and *Another*, which *Other Perſon* was not ſo much as

heard of by that *Great Man* till above *Three Months* after many *Letters* relating to the *Conſpiracy* were intercepted; and all the while carefully paſſing over in Silence (let not this be forgot) Every *Circumſtance* which could not poſſibly be a Part of any ſuch *Contrivance*. For Inſtance, If *Neyme* could have forged *Letters* for Mr. Kelly; yet *Neyme* and the *Greateſt Man* in the World; with all the *Power* of the *Greateſt Man* in the World, could not, by any *Contrivance* between Themſelves, make *Correſpondents* abroad for Mr. Kelly to his own Mind; and cauſe *Letters* to be writ back by ſuch *Correſpondents*, with ſuch *Directions* as Mr. Kelly had in his *Pocket-Book*; and theſe *Letters* to be left at ſuch *Houſes* as Mr. K. ſhould expect Them to be found at; and even much leſs could They force Mr. K. whether He would or no, to call Himſelf at One *Coffee-houſe* for an *Answer* to *Letters* forged by *Neyme*; and, after ſeeing Himſelf detected there, force Him to order *Other Perſons* to take in ſuch *Answers* for Him; and force Him to pay for theſe *Letters* ſo taken in: All which was ſo plainly proved, that Mr. K. does not attempt to give any *Answer* to theſe *Facts*, but ſuch a One, as ſhows He could give none. But no more.

When I think of Him, as a *Subject* of *Great Britain*, thus attempting, with a deſperate and ſedate Reſolution, the Ruin of his Country; When I think of Him, as a *Clergyman*, thus voluntarily throwing off the *Cares* of his Function, and mixing Himſelf ſo ſcandalouſly in the vileſt Affairs of this World's *Politics*; When I think of Him, as a *Chriſtian Preacher*, proſtituting the Sacredneſs of *Solemn Affirmations* pronounced upon the *Faith* of a *Chriſtian*, and making vile his *Holy Profeſſion* in the Eyes of *Infidels* and *Enemies*; When I think of—But I can go no higher.—It is Time for Him to think of Himſelf under theſe Views, in another-guiſe Manner than He appears to have done yet: And if He does, He will beſt judge what *Reparation* He can make to his *Injured Country*; What *Reſtitution* to Thoſe, whom He has, without *Mercy* or *Justice*, againſt all *Truth* and all *Modesty*, ſo infamouslly traduced; and above all, What *Amends* to the *Cauſe* of *Virtue*, *Morality*, *Conſcience*, and *Honour*; to the *Interests* of the *Beſt Religion*, and the moſt *Holy Profeſſion*—which muſt all bleed from the Wounds He has reſolutely and inhumanely given them.

BRITANNICUS.



F I N I S.